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AL-10-001-2059
United States Senate

COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY
WASHINGTON, DC 20510-6000
202-224-2035

SAXBY CHAMBLISS, GEORGIA
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JOHN THUNE, SOUTH DAKOTA
JOHN CORNYN, TEXAS

July 2, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We are very concerned about the U.S. Environmental Protection Agency's (EPA) decision in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule to consider the emissions from biomass combustion the same as emissions from fossil fuels.

EPA's decision contradicts long-standing U.S. policy, as well as the agency's own proposed Tailoring Rule. Emissions from the combustion of biomass are not included in the Department of Energy's voluntary greenhouse gas (GHG) emissions reporting guidelines and neither are they required to be reported under EPA's GHG Reporting Rule. In the proposed Tailoring Rule, EPA proposed to calculate a source's GHG emissions based upon EPA's Inventory of U.S. GHG Emissions and Sinks. The GHG Inventory excludes biomass emissions.

We think you would agree that renewable biomass should play a more significant role in our nation's energy policy. Unfortunately, the Tailoring Rule is discouraging the responsible development and utilization of renewable biomass. It has already forced numerous biomass energy projects into limbo. We are also concerned that it will impose new, unnecessary regulations on the current use of biomass for energy.

We appreciate that EPA intends to seek further comments on how to address biomass emissions under the PSD and Title V programs. With this rule, the agency has made a fundamental change in policy with little explanation. We strongly encourage you to reconsider this decision and immediately begin the process of seeking comments on it. In addition, we appreciate Secretary of Agriculture Tom Vilsack's commitment to working with EPA on this issue and encourage you to utilize the expertise of the U.S. Department of Agriculture.

Ray Sticker

Susan Collins

Ray R. Hazen

Th. Wp

Mike Croy

Paul Calman

John Thune

Jan E. Fisel

Bob Carey, Jr.

Jeff Sessions

ACSS

Patty Murray

Olympic Group

Paul Begala

Mark R. Warner

Richard Shelby

Jeffrey A. Merkley

Jon Tester

Lee Meriwether

Coincidentally

My Barnes

David Vitter

Janne Skarvick

George V. Voinovich



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 12 2010

OFFICE OF
AIR AND RADIATION

The Honorable Roger Wicker
United States Senate
Washington, D.C. 20510

Dear Senator Wicker:

Thank you for your July 2, 2010, letter co-signed by 24 of your colleagues, to Administrator Jackson raising concerns regarding the treatment of biomass combustion emissions in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule (the "Tailoring Rule"). At her request, I am writing to respond.

I would like to address your comments about the treatment of biomass combustion emissions in the final Tailoring Rule and to assure you that we plan to further consider how the PSD and Title V permitting programs apply to these emissions.

As you noted, the final Tailoring Rule does not exclude biomass-derived carbon dioxide (CO₂) emissions from calculations for determining PSD and Title V applicability for greenhouse gases (GHGs). To clarify a point made in your letter, the proposed Tailoring Rule also did not propose to exclude biomass emissions from the calculations for determining PSD and Title V applicability for GHGs. The proposed Tailoring Rule pointed to the U.S. Environmental Protection Agency's (EPA) Inventory of Greenhouse Gas Emissions and Sinks for guidance on how to estimate a source's GHG emissions on a CO₂-equivalent basis using global warming potential (GWP) values¹. This narrow reference to the use of GWP values for estimating GHG emissions was provided to offer consistent guidance on how to calculate these emissions and not as an indication, direct or implied, that biomass emissions would be excluded from permitting applicability merely by association with the national inventory.

We recognize the concerns you raise on the treatment of biomass combustion emissions for air permitting purposes. As stated in the final Tailoring Rule, we are mindful of the role that biomass or biogenic fuels and feedstocks could play in reducing anthropogenic GHG emissions, and we do not dispute observations that many federal and international rules and policies treat biogenic and fossil fuel sources of CO₂ emissions differently. Nevertheless, we explained that the legal basis for the Tailoring Rule, reflecting specifically the overwhelming permitting burdens that would be created under the statutory emissions thresholds, does not itself provide a rationale for excluding all emissions of CO₂ from combustion of a particular fuel, even a biogenic one.

¹ See 74 FR 55351, under the definition for "carbon dioxide equivalent"

The fact that in the Tailoring Rule EPA did not take final action one way or another concerning such exclusion does not mean that EPA has decided that there is no basis for treating biomass combustion CO₂ emissions differently from fossil fuel combustion CO₂ emissions under the Clean Air Act's PSD and Title V programs. The Agency is committed to working with stakeholders to examine appropriate ways to treat biomass combustion emissions, and to assess the associated impacts on the development of policies and programs that recognize the potential for biomass to reduce overall GHG emissions and enhance US energy security. Accordingly, on July 9, 2010 we issued a Call for Information² asking for stakeholder input on approaches to addressing GHG emissions from bioenergy and other biogenic sources, and the underlying science that should inform these approaches. Taking into account stakeholder feedback, we will examine how we might address such emissions under the PSD and Title V programs. We will move expeditiously on this topic over the next several months. As we do so, we will continue to work with key stakeholders and partners, including the US Department of Agriculture, whose offices bring recognized expertise and critical perspectives to these issues.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina McCarthy', with a stylized, flowing script.

Gina McCarthy
Assistant Administrator

² Posted online at http://www.epa.gov/climatechange/emissions/biogenic_emissions.html

AL-10-001-4338

JO ANN EMERSONMEMBER OF CONGRESS
8TH DISTRICT, MISSOURICOMMITTEE:
APPROPRIATIONSSUBCOMMITTEE:
RANKING MEMBER, FINANCIAL
SERVICES AND GENERAL GOVERNMENTAGRICULTURE, RURAL DEVELOPMENT,
FOOD AND DRUG ADMINISTRATION,
AND RELATED AGENCIES<http://www.house.gov/emerson>**Congress of the United States**
House of Representatives
Washington, DC 20515-2508

August 18, 2010

OFFICES:

2440 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4404555 INDEPENDENCE STREET
SUITE 1400
CAPE GIRARDEAU, MO 63703
(573) 336-01011301 KINGSHIGHWAY
ROLLA, MO 65401
(573) 364-245522 EAST COLUMBIA
FARMINGTON, MO 63640
(573) 756-975535 COURT SQUARE
SUITE 300
WEST PLAINS, MO 65775
(417) 255-1515

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

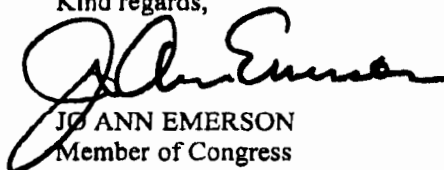
I am deeply troubled by the Environmental Protection Agency's failure to exclude woody biomass from the permitting process under the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule. The inclusion of woody biomass in this rule will harm Missouri's economy and the livelihood of many workers in the Eighth Congressional District. The tailoring rule is just the latest in a long line of job-killing initiatives that EPA has promulgated over the past nineteen months. Please reconsider this idea.

Missouri's timber industry generated almost \$1.7 billion in 2007. The tailoring rule promulgated by EPA will place onerous requirements on the forest products industry, as well as those that have adapted their power sources to run on woody biomass. Schools, municipalities, and businesses throughout the state are either already operating on, or in the process of installing, boilers which are fueled by woody biomass. Saw mills throughout the region already use this type of power to run their kilns. The new rules would likely force all of these entities to search for other, more costly, sources of fuel and it will result directly in businesses cutting back on employees, or worse, close their doors.

I hear President Obama speak often about his efforts to restore the economy, yet his own administration is promulgating a regulation that will decimate the entire timber industry. In order to keep and grow jobs, Missouri requires an energy policy which will encourage the use of available renewable fuels without destroying the timber industry.

Once again, I urge you to reconsider the inclusion of woody biomass in EPA's tailoring rule; it is a threat to Missouri's economy and the livelihoods of the constituents I represent. Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact Frank Miller in my Washington, DC Office at (202) 225-4404.

Kind regards,


JO ANN EMERSON
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 22 2010

OFFICE OF
AIR AND RADIATION

The Honorable Jo Ann Emerson
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Emerson:

Thank you for your August 18, 2010, letter to Administrator Jackson expressing concern about the U.S. Environmental Protection Agency's (EPA) failure to exclude woody biomass combustion from the permitting process under the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule (the "GHG Tailoring Rule"). In your letter, you urged EPA to reconsider the treatment of woody biomass combustion under the GHG Tailoring Rule as you believe it will harm Missouri's economy and the livelihood of your constituents.

Please be assured that we recognize the concerns you raise on the treatment of biomass combustion emissions for air permitting purposes and the potential economic implications. In the Tailoring Rule, EPA did not take final action one way or another concerning such an exclusion. EPA has not yet made a decision regarding whether there is a basis for treating biogenic carbon dioxide (CO₂) emissions differently from fossil fuel CO₂ emissions under the Clean Air Act's PSD and Title V programs.

The Agency is committed to working with stakeholders to examine appropriate ways to treat biomass or biogenic combustion emissions, and to assess the associated impacts on the development of policies and programs that recognize the potential for these fuels to reduce overall GHG emissions and enhance U.S. energy security. On July 9, 2010, we issued a Call for Information¹ asking for stakeholder input on approaches to addressing GHG emissions from bioenergy and other biogenic sources, and the underlying science that should inform these approaches. Taking into account stakeholder feedback, we will examine how we might address such emissions under the PSD and Title V programs. We will move expeditiously on this topic over the next several months. As we do so, we will continue to work with key stakeholders and partners, including the US Department of Agriculture, whose offices bring recognized expertise and critical perspectives to these issues.

¹ Posted online at http://www.epa.gov/climatechange/emissions/biogenic_emissions.html

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina McCarthy', with a stylized, flowing script.

Gina McCarthy
Assistant Administrator

AL-10-002-0481

Congress of the United States
Washington, DC 20515

December 10, 2010

Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave., NW, Room 3426 ARN
Washington, DC 20460

Administrator Jackson:

Since June 2010, we have been working with the Environmental Protection Agency (EPA) to resolve a critical issue regarding the treatment of biomass under the agency's Prevention of Significant Deterioration of Title V Greenhouse Gas Tailoring Rule (the Tailoring Rule). As we approach the implementation date of the Tailoring Rule in January 2011 the status of renewable biomass remains unresolved. Immediate action is needed by EPA to change the treatment of biomass under the rule to avoid harmful impacts on the biomass energy sector.

The final Tailoring Rule issued on May 13, 2010 did not recognize the carbon cycle of biogenic sources despite long standing national and international policy to the opposite. Sixty four Members of the House of Representatives wrote to you in June 2010 expressing deep disappointment and concern over the treatment of renewable biomass in the final Tailoring Rule and requested a stay of the application of the rule to biomass combustion facilities pending your review.

In July 2010 EPA responded to the June letter by stating the agency was "mindful of the role biomass or biogenic fuels and feedstocks could play in reducing anthropogenic GHG emissions" and that although the agency had not crafted a definitive policy, EPA was "committed to working with stakeholders to examine appropriate ways to treat biomass combustion." EPA followed through on this commitment on July 9, when the agency announced a Call for Information asking for stakeholder input on approaches to addressing GHG emission from biogenic sources in the Tailoring Rule.

It is our understanding that as a result of the Call for Information, meetings with stakeholders and scientific experts, and internal deliberations, EPA is now considering a supplemental rulemaking to recognize the carbon benefits of biomass and to clarify the treatment of biogenic sources under the Tailoring Rule. **We fully support this action and urge the agency to propose the supplement before the implementation of the Tailoring Rule on January 2, 2011.**

The implementation of the Tailoring Rule without recognizing the carbon benefits of renewable biomass threatens future investment in biomass energy, job creation in rural communities, and our collective renewable energy goals. To prevent significant and ongoing harm to the biomass sector, **we believe the application of the Tailoring Rule to**

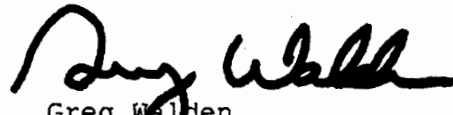
biomass combustion facilities should be stayed until such a supplemental rulemaking process is complete.

We appreciate your attention to this matter and thank you in advance for your prompt and substantive response to this critically important issue.

Sincerely,



Peter DeFazio
Member of Congress



Greg Walden
Member of Congress



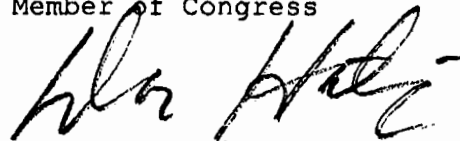
Kurt Schrader
Member of Congress



Cathy McMorris Rodgers
Member of Congress



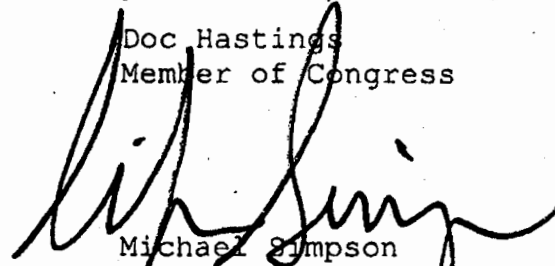
Norm Dicks
Member of Congress



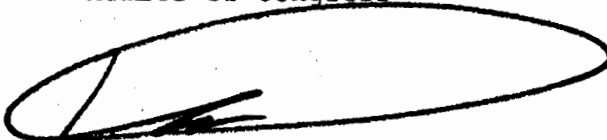
Doc Hastings
Member of Congress



Michael Michaud
Member of Congress



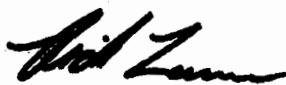
Michael Simpson
Member of Congress



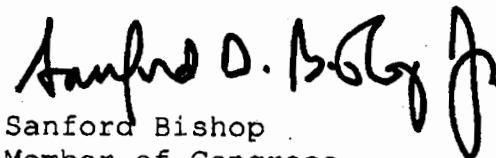
David Wu
Member of Congress



G.K. Butterfield
Member of Congress



Rick Larsen
Member of Congress



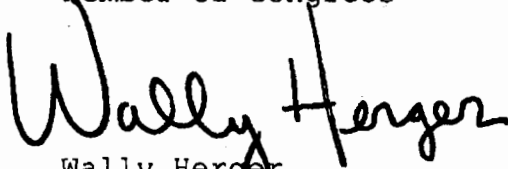
Sanford Bishop
Member of Congress




Mike Ross
Member of Congress



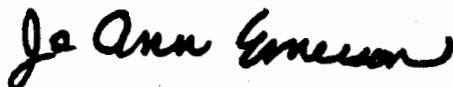
Ron Kind
Member of Congress



Wally Herger
Member of Congress



Dan Boren
Member of Congress



Jo Ann Emerson
Member of Congress



Doug Lamborn
Member of Congress



Adam Smith
Member of Congress



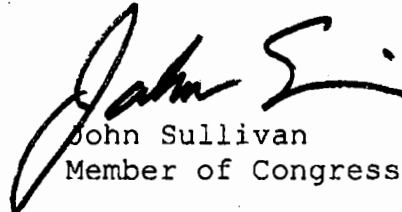
Shelley Moore Capito
Member of Congress



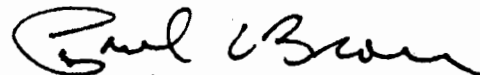
Jo Bonner
Member of Congress



G.T. Thompson
Member of Congress




John Sullivan
Member of Congress



Paul Broun
Member of Congress



Walter Jones
Member of Congress



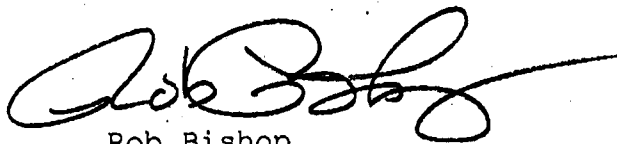
Mike Rogers
Member of Congress



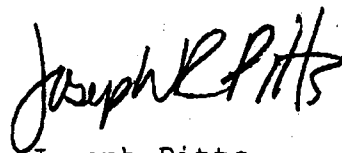
Denny Rehberg
Member of Congress



Sue Myrick
Member of Congress



Rob Bishop
Member of Congress



Joseph Pitts
Member of Congress



David Reichert
Member of Congress



William Owens
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Peter DeFazio
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman DeFazio:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

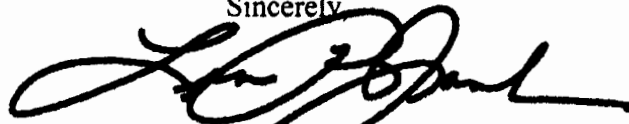
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO₂ emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO₂ emissions in ways that are scientifically sound and also manageable in practice.

EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO₂ emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO₂ emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO₂. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO₂ at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson

AL-10-002-1036

COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
BUDGET
ENERGY AND NATURAL RESOURCES
FINANCE

United States Senate

133 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2204

December 21, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. N.W.
Washington, DC 20460

Dear Administrator Jackson,

I greatly appreciate your response to my letter regarding the consideration of biomass within EPA's Tailoring Rule for greenhouse gas emissions. I also appreciate your work to ensure that biomass continues to play a role in our nation's efforts to promote clean energy sources. However, given that the Tailoring Rule becomes effective on January 2, 2011, this issue must be resolved quickly to prevent unintended consequences for biomass power production facilities currently in operation, new biomass project developments, and the critical jobs that they both provide.

To that end, I would appreciate further clarification on some issues that you have raised in your November 16, 2010, response to me. Specifically, in your letter, you say that the EPA is working to determine "whether the Clean Air Act authorizes any biomass CO2 emissions to be discounted based on a finding that they are canceled out by the absorption associated with growing the fuel." I understand that EPA may have the discretion to exclude or discount certain emissions from the Clean Air Act's regulatory reach based on the lack of adverse effect of such emissions. As I have mentioned previously, there is considerable scientific evidence that biomass energy does not increase the amount of greenhouse gases in circulation.

Given your legal authority, and the data that you have received as a result of the Call for Information, I would ask that you, as soon as possible, provide me with an anticipated timeframe of how soon EPA could complete a public notice and comment process to amend the Tailoring Rule.

Thank you for all of your work on this important issue both to Michigan and to our Nation. I look forward to your timely response.

Sincerely,





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Debbie Stabenow
United States Senate
Washington, D.C. 20510

Dear Senator Stabenow:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

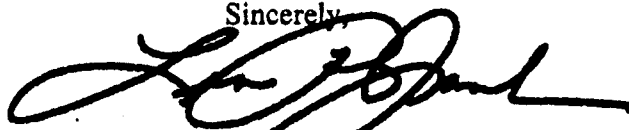
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO2 emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO2 emissions in ways that are scientifically sound and also manageable in practice.

EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO2 emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO2 emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO2. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO2 at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson



{In Archive} Fw: Biomass/Tailoring Rule Letter

Josh Lewis, Patricia Haman, Larry
David McIntosh to: Weinstock, Joseph Goffman, Benjamin
Hengst

07/06/2010 12:25 PM

Archive: This message is being viewed in an archive.

This is the Senate biomass letter, which came in on Friday afternoon.

----- Forwarded by David McIntosh/DC/USEPA/US on 07/06/2010 12:24 PM -----

From: Arvin Ganesan/DC/USEPA/US
To: "David McIntosh" <mcintosh.david@epa.gov>
Date: 07/02/2010 04:22 PM
Subject: Fw: Biomass/Tailoring Rule Letter

Sent from my Blackberry Wireless Device

From: "Bina, Betsy (Agriculture)" [Betsy_Bina@agriculture.senate.gov]
Sent: 07/02/2010 04:19 PM AST
To: Arvin Ganesan
Subject: Biomass/Tailoring Rule Letter

Arvin,

I wanted to make sure you received a copy of this letter. It was sent this afternoon.

Thank you,
Betsy

Betsy Bina
U.S. Senate Committee on Agriculture,
Nutrition, and Forestry
SR-328A Russell
Washington, DC 20510
Tel: ☐



Senate_Admin_Jackson_July_1.pdf

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United States Senate

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202-224-2035

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July 2, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We are very concerned about the U.S. Environmental Protection Agency's (EPA) decision in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule to consider the emissions from biomass combustion the same as emissions from fossil fuels.

EPA's decision contradicts long-standing U.S. policy, as well as the agency's own proposed Tailoring Rule. Emissions from the combustion of biomass are not included in the Department of Energy's voluntary greenhouse gas (GHG) emissions reporting guidelines and neither are they required to be reported under EPA's GHG Reporting Rule. In the proposed Tailoring Rule, EPA proposed to calculate a source's GHG emissions based upon EPA's Inventory of U.S. GHG Emissions and Sinks. The GHG Inventory excludes biomass emissions.

We think you would agree that renewable biomass should play a more significant role in our nation's energy policy. Unfortunately, the Tailoring Rule is discouraging the responsible development and utilization of renewable biomass. It has already forced numerous biomass energy projects into limbo. We are also concerned that it will impose new, unnecessary regulations on the current use of biomass for energy.

We appreciate that EPA intends to seek further comments on how to address biomass emissions under the PSD and Title V programs. With this rule, the agency has made a fundamental change in policy with little explanation. We strongly encourage you to reconsider this decision and immediately begin the process of seeking comments on it. In addition, we appreciate Secretary of Agriculture Tom Vilsack's commitment to working with EPA on this issue and encourage you to utilize the expertise of the U.S. Department of Agriculture.

Please let us know as soon as possible the agency's plans on this matter. We appreciate your attention to this important issue.

Sincerely,

Richard L. Linstead

Sally Chaublin

Mark Royce

Amy Klobuchar

Sam Bernbach

Dick Lugar

Paul Udall

Mary Landrum

Jim Johnson

Jeff Bond

Jim Webb

John

Lyndie Wicker

Susan Collins

Kay R. Hagan

Th. W.

Mike Crago

Paul Calam

John Thune

Jan E. Kins

Bob Carey, Jr.

Jeff Sessions

←

Patty Murray

Olympia Snowe

Mark Begich

Mark R. Warner

Richard Shelby

Jeffrey A. Merkley

Jon Tester

Jon Tester

Coincidentally

My Bureau

Don Vitter

Jeane Stakes

George V. Voinovich



{In Archive} EPA press release: EPA to Defer GHG Permitting Requirements for Industries that Use Biomass

Josh Lewis to:

01/12/2011 12:15 PM

Cc: Patricia Haman

Archive: This message is being viewed in an archive.

Wanted to make sure you were aware of this release. Please call me (202-564-2095) or Pat Haman (202-564-2806) if you have any questions.

FOR IMMEDIATE RELEASE

January 12, 2011

EPA to Defer GHG Permitting Requirements for Industries that Use Biomass

Three-year deferral allows for further examination of scientific and technical issues associated with counting these emissions

WASHINGTON - The U.S. Environmental Protection Agency (EPA) is announcing its plan to defer, for three years, greenhouse gas (GHG) permitting requirements for carbon dioxide (CO₂) emissions from biomass-fired and other biogenic sources. The agency intends to use this time to seek further independent scientific analysis of this complex issue and then to develop a rulemaking on how these emissions should be treated in determining whether a Clean Air Act permit is required.

"We are working to find a way forward that is scientifically sound and manageable for both producers and consumers of biomass energy. In the coming years we will develop a commonsense approach that protects our environment and encourages the use of clean energy," said EPA Administrator Lisa P. Jackson. "Renewable, homegrown power sources are essential to our energy future, and an important step to cutting the pollution responsible for climate change."

By July 2011, EPA plans to complete a rulemaking that will defer permitting requirements for CO₂ emissions from biomass-fired and other biogenic sources for three years. During the three-year period, the agency will seek input on critical scientific issues from its partners within the federal government and from outside scientists who have relevant expertise. EPA will also further consider the more than 7,000 comments it received from its July 2010 Call for Information, including comments noting that burning certain types of biomass may emit the same amount of CO₂ emissions that would be emitted if they were not burned as fuel, while others may result in a net increase in CO₂ emissions. Before the end of the three-year period, the agency intends to issue a second rulemaking that determines how these emissions should be treated or counted under GHG permitting requirements.

The agency will also issue guidance shortly that will provide a basis that state or local permitting authorities may use to conclude that the use of biomass as fuel is the best available control technology for GHG emissions until the agency can complete action on the three-year deferral in July.

In a separate but related letter, EPA is notifying the National Alliance of Forest Owners that it will grant its petition to reconsider the portion of the May 2010 tailoring rule that addresses the same issue.

CO₂ emissions from biomass-fired and other biogenic sources are generated during the combustion or decomposition of biologically based material. Sources covered by this decision would include facilities that emit CO₂ as a result of burning forest or agricultural products for energy, wastewater treatment and livestock management facilities, landfills and fermentation processes for ethanol production.

On January 2, 2011, air permitting requirements began for large GHG emitting industries that are planning

to build new facilities or make major modifications to existing ones. These facilities must obtain air permits and implement energy efficiency measures or, where available, cost-effective technology to reduce their GHG emissions. This includes the nation's largest GHG emitters, such as power plants and refineries. Emissions from small sources, such as farms and restaurants, are not covered by these GHG permitting requirements.

More information: <http://www.epa.gov/nsr>

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



{In Archive} Fw: Embargoed until noon: EPA Biomass Deferral Proposal

Patricia Haman to: michael_chahinian

03/14/2011 11:41 AM

Cc: Josh Lewis

Archive: This message is being viewed in an archive.

Hi Michael: I got a bounce-back for Kathryn Issacson saying she is no longer with Senator Sessions' staff. The receptionist said you are handling environmental issues in the interim. Below is an announcement I just sent out which should not be a surprise to anyone. Pat Haman

Patricia Haman
Office of Congressional and Intergovernmental Relations
202-564-2806

Good Morning: In January EPA announced that the Agency determined it is appropriate to defer Clean Air Act (CAA) permitting requirements for carbon dioxide (CO₂) emissions from bioenergy and other biogenic sources for three years while the Agency reviews additional scientific information.

Today we announce(at approximately noon) the official proposed Federal Register notice with more details about our plans. EPA will accept public comments on the proposed deferral for 45 days following publication in the Federal Register.

EPA also is issuing interim guidance to help permitting authorities establish a basis for concluding that under the CAA Prevention of Significant Deterioration and Title V Programs the combustion of biomass fuels can be considered the best available control technology (BACT) for biogenic CO₂ emissions at stationary sources.

Sources covered by this decision would include facilities that emit CO₂ as a result of burning forest or agricultural products for energy, wastewater treatment and livestock management facilities, landfills and fermentation processes for ethanol production.

Please note that facilities meeting the requirements under the agency's GHG reporting program will still need to report their CO₂ emissions to the agency.

Here is the link which will go live shortly:

<http://www.epa.gov/nsr>

Click on the notice in the upper right hand and it will take you to a page with the pre-publication version of the FR notice, guidance, and a fact sheet, etc.

Please call Josh Lewis (202-564-2095) or myself with any questions you may have.

Pat

Patricia Haman
Office of Congressional and Intergovernmental Relations

202-564-2806



status of draft advisory on Carbon Dioxide Accounting for Emissions from Biogenic Sources

Patricia Haman to: Rick_Fox

07/24/2012 12:24 PM

Cc: Josh Lewis

From: Patricia Haman/DC/USEPA/US
To: Rick_Fox@baucus.senate.gov
Cc: Josh Lewis/DC/USEPA/US

Hi Rick: Josh Lewis asked me to help you with your request regarding, the "draft advisory on Carbon Dioxide Accounting for Emissions from Biogenic Sources." The person in charge of the effort is out until Thursday but here is what I pieced together. We think that the quote you provided:

EPA's Accounting Framework for Biogenic CO2 Emissions from Stationary Sources was to be expected 'within a couple weeks,'

actually refers to an internal workgroup draft which would not be available to the public at this juncture. According to what I have been able to find out, the minutes say, "panelists could expect to see a revised draft within a couple of weeks" meaning the internal draft being circulated among members of the Panel.

However, I want to confirm that with this particular staffer and ask when the next version for the public review is expected. Her co-worker just wasn't sure. In the meantime, I want to make sure you know that the most recent version of the SAB Report (May 29) is linked below:

<http://yosemite.epa.gov/sab/SABPRODUCT.NSF/ea5d9a9b55cc319285256cbd005a472e/fbe57e198002616185257a0d0047f01f!OpenDocument>

Pat
Patricia Haman
Office of Congressional and Intergovernmental Relations
202-564-2806

Haman, Patricia

From: Berick, David (Energy) [David_Berick@energy.senate.gov]
Sent: Tuesday, February 26, 2013 1:13 PM
To: Haman, Patricia
Subject: Re: EPA issues final rule identifying additional qualifying renewable fuel pathways under the RFS program

Money to burn, I see.

From: Haman, Patricia [mailto:Haman.Patricia@epa.gov]
Sent: Tuesday, February 26, 2013 01:08 PM Eastern Standard Time
To: Berick, David (Energy)
Subject: RE: EPA issues final rule identifying additional qualifying renewable fuel pathways under the RFS program

Two separate analyses on separate time tables.

From: Berick, David (Energy) [mailto:David_Berick@energy.senate.gov]
Sent: Tuesday, February 26, 2013 1:05 PM
To: Haman, Patricia; Lewis, Josh
Subject: RE: EPA issues final rule identifying additional qualifying renewable fuel pathways under the RFS program

So I guess my next question is how this is lashed up with the tailoring rule biomass analysis. Are they the same exercise, or are there two separate analytical processes?

From: Haman, Patricia [mailto:Haman.Patricia@epa.gov]
Sent: Tuesday, February 26, 2013 12:09 PM
To: Lewis, Josh; Berick, David (Energy)
Subject: RE: EPA issues final rule identifying additional qualifying renewable fuel pathways under the RFS program

Hi Dave: Here is what the staff put together regarding their woody biomass work plans for the next six months. Plantation grown trees fall under this work plan. If you have any questions overall or about any particular component, just let me know. Pat

The time it takes to finalize such an analysis varies and depends on a number of factors, including:

Degree of similarity to previously modeled feedstocks;

Amount of model modification needed -

Complexity of market interactions resulting from an increase in demand for biofuel based on that feedstock;

Amount of data available;

and

Complexity of relevant scientific and analytical issues involved with the feedstock.

Though each analysis is unique with respect to specific requirements, most of our analyses can be broken down into a number of stages, including: (1) data collection and development of analytical parameters; (2) initial model runs and calibration/correction of the model; (3) presentation of preliminary results through a formal action that provides opportunity for public comment (e.g., a proposed rule); and (4) finalization of the analysis following review of comments and any additional modeling, as necessary.

With respect to the whole tree pathway analysis, we are currently in the first phase. Our experience in developing and finalizing various renewable fuel emissions analyses has taught us that time invested in carefully collecting data, developing analytical parameters, and establishing and validating modeling assumptions is a critical step in the process,

and one that if not done properly can lead to many months of additional work and delay later in the process. This is particularly true of the whole tree pathway, since the analytical issues underlying the topic are complex and require modeling approaches that are unique to the forestry sector.

EPA has already begun model development and has met repeatedly with industry stakeholders. Over the next six months, we hope to make significant process in the first two phases of our analysis: data collection and development of analytical parameters, and initiating the process of modeling runs and model calibration. As part of that process we will:

Meet with industry stakeholders, USDA, and USFS to finalize key assumptions on harvesting practices, input use, and facility technology, to be used in EPA's lifecycle analysis for woody biomass.

Work with industry stakeholders, USDA, and USFS to finalize scenario specifications.

Further refine the agricultural and forestry sector models to adequately reflect land use change and economic impacts associated with an increase in demand for biofuels from woody biomass.

From: Lewis, Josh
Sent: Friday, February 22, 2013 7:16 PM
To: Berick, David (Energy)
Cc: Haman, Patricia
Subject: Re: EPA issues final rule identifying additional qualifying renewable fuel pathways under the RFS program

Pat can provide you with an update on the tree pathway on Monday.

From: Berick, David (Energy)
Sent: Friday, February 22, 2013 5:56:29 PM
To: Lewis, Josh; Berick, Dave (Wyden)
Subject: RE: EPA issues final rule identifying additional qualifying renewable fuel pathways under the RFS program

This is disappointing. What is the status of approval of plantation grown trees?

From: Lewis, Josh [<mailto:Lewis.Josh@epa.gov>]
Sent: Friday, February 22, 2013 5:50 PM
To: Berick, Dave (Wyden)
Subject: FW: EPA issues final rule identifying additional qualifying renewable fuel pathways under the RFS program

From: Lewis, Josh
Sent: Friday, February 22, 2013 5:09 PM
Cc: Haman, Patricia; Mackay, Cheryl
Subject: FYI: EPA issues final rule identifying additional qualifying renewable fuel pathways under the RFS program

Please see attached for a fact sheet w/ additional information. The rule text will be posted later today at: <http://www.epa.gov/otaq/fuels/renewablefuels/regulations.htm>.

Josh Lewis
EPA/Office of Congressional and Intergovernmental Relations
202 564 2095 (desk)
 . (cell)

Haman, Patricia

From: Haman, Patricia
Sent: Monday, May 06, 2013 10:59 AM
To: Deveny, Adrian (Merkley)
Subject: Re: Biogenic Emissions Briefing tomorrow

Thanks - this is great. Pat

From: Deveny, Adrian (Merkley)
Sent: Monday, May 06, 2013 10:53:40 AM
To: Haman, Patricia; Gray, Spencer (Baucus)
Subject: RE: Biogenic Emissions Briefing tomorrow

As of right now, in addition to Spencer and I, I have RSVPs from the following offices: Wyden, M. Udall, McCaskill, Murray, Klobuchar, Pryor, Casey. The room number is 313 Hart.

From: Haman, Patricia [<mailto:Haman.Patricia@epa.gov>]
Sent: Monday, May 06, 2013 10:44 AM
To: Deveny, Adrian (Merkley); Gray, Spencer (Baucus)
Subject: Biogenic Emissions Briefing tomorrow

Good Morning: I hope you both had a good weekend. I need to confirm which offices will be attending tomorrow's briefing and need a room number to update everyone's calendars. We will not all be coming from the same building. Thanks, Pat

Haman, Patricia

From: Haman, Patricia
Sent: Wednesday, March 27, 2013 12:11 PM
To: Sperling, Anna (Murray); Lewis, Josh; Ganesan, Arvin
Subject: RE: Tailoring Rule question

Hi Anna: I left you a message earlier today. I am happy to talk to you. In the meantime, let me share an update we recently provided to another staff:

In September 2011, EPA provided the EPA Scientific Advisory Board with a study exploring the scientific and technical issues associated with biogenic CO2 emitted from stationary sources, and presenting an accounting framework for estimating biogenic CO2 emissions on the basis of information about the carbon cycle.

The EPA Scientific Advisory Board provided their peer review in the fall of 2012.

We are still in the process of reviewing their findings and recommendations and developing a response.

Accordingly, we are aware of the timeframe for the 3-year deferral and also are considering all regulatory options. At this time, we are still in internal deliberations and have not publicly announced any decisions.

Pat

From: Sperling, Anna (Murray) [Anna_Sperling@murray.senate.gov]
Sent: Wednesday, March 27, 2013 12:03 PM
To: Lewis, Josh; Ganesan, Arvin
Cc: Haman, Patricia
Subject: RE: Tailoring Rule question

Yep, that's it! Thanks.

Anna K. Sperling
U.S. Senator Patty Murray

** Please note that Senator Murray's office recently moved to SR-154.

From: Lewis, Josh [mailto:Lewis.Josh@epa.gov]
Sent: Wednesday, March 27, 2013 8:51 AM
To: Sperling, Anna (Murray); Ganesan, Arvin
Cc: Haman, Patricia
Subject: RE: Tailoring Rule question

Adding Pat too, as I'm assuming this has to do w/ the biogenic CO2 emissions study? If so, Pat can give you a call to give you a status update on that. If it's something else, let us know.

Josh Lewis
EPA/Office of Congressional and Intergovernmental Relations
Desk: 202 564 2095
Cell:

From: Sperling, Anna (Murray) [mailto:Anna_Sperling@murray.senate.gov]
Sent: Tuesday, March 26, 2013 5:38 PM
To: Ganesan, Arvin

Cc: Lewis, Josh
Subject: RE: Tailoring Rule question

Thanks for getting back to me! Josh, would it be possible to touch base tomorrow? I'm happy to give you a call whenever – I'm free pretty much all day.

Thanks again,
Anna

Anna K. Sperling
U.S. Senator Patty Murray

**** Please note that Senator Murray's office recently moved to SR-154.**

From: Ganesan, Arvin [<mailto:Ganesan.Arvin@epa.gov>]
Sent: Tuesday, March 26, 2013 4:37 PM
To: Sperling, Anna (Murray)
Cc: Lewis, Josh
Subject: RE: Tailoring Rule question

I am so sorry for the delay. I'm adding Josh to help.

Again, so sorry.

Arvin R. Ganesan
Associate Administrator

U.S Environmental Protection Agency
Office of Congressional and Intergovernmental Relations
202.564.5200
ganesan.arvin@epa.gov

From: Sperling, Anna (Murray) [mailto:Anna_Sperling@murray.senate.gov]
Sent: Tuesday, March 26, 2013 4:30 PM
To: Ganesan, Arvin
Subject: RE: Tailoring Rule question

Hi Arvin,
Just hoping to touch base with you regarding the tailoring rule. Could you give me a call – or direct me to someone in your office – on this issue?

I'm at

Thanks!

Anna

Anna K. Sperling
U.S. Senator Patty Murray

** Please note that Senator Murray's office recently moved to SR-154.

From: Sperling, Anna (Murray)
Sent: Thursday, March 21, 2013 9:10 AM
To: 'Ganesan.Arvin@epamail.epa.gov'
Subject: Tailoring Rule question

Hi Arvin,
I think I've met you in the past – perhaps during hill visits to discuss Boiler MACT? I'm Senator Murray's new Legislative Assistant for environment and natural resource issues and I just wanted to touch base with you regarding the Tailoring Rule. Happy to chat on the phone if that's better. My boss is hoping for an update as she's preparing to go home for recess.

Hope to chat soon!

Thanks,
Anna

Anna K. Sperling
Legislative Assistant
U.S. Senator Patty Murray
-

** Please note Senator Murray's office recently moved to SR-154.

Haman, Patricia

From: Haman, Patricia
Sent: Wednesday, March 13, 2013 11:13 AM
To: 'Adrian_Deveny@merckley.senate.gov'; 'spencer_gray@baucus.senate.gov'
Subject: Biogenic CO2 Emissions Study

Hi Adrian and Spencer: It is my understanding that you have been in contact with Arvin regarding our biogenic CO2 emissions study. Below is the latest update regarding the study and potential next steps. Take a look and give me a call if you still would like a briefing. I think it might be a little premature to give a briefing but am happy to discuss it. Pat

In September 2011, EPA provided the EPA Scientific Advisory Board with a study exploring the scientific and technical issues associated with biogenic CO2 emitted from stationary sources, and presenting an accounting framework for estimating biogenic CO2 emissions on the basis of information about the carbon cycle.

The EPA Scientific Advisory Board provided their peer review in the fall of 2012.

We are still in the process of reviewing their findings and recommendations and developing a response.

Accordingly, we are aware of the timeframe for the 3-year deferral and also are considering all regulatory options. At this time, we are still in internal deliberations and have not publicly announced any decisions.

Patricia Haman
Office of Congressional and Intergovernmental Relations
U.S. EPA
202-564-2806

Haman, Patricia

From: Haman, Patricia
Sent: Wednesday, March 13, 2013 11:06 AM
To: 'Joe_McGarvey@stabenow.senate.gov'
Cc: Lewis, Josh
Subject: Biogenic CO2 Emissions Study

Hi Joe: I am sorry it has taken us this long to get back to you about your question regarding our biogenic CO2 emissions study and potential next steps. Below is our update:

In September 2011, EPA provided the EPA Scientific Advisory Board with a study exploring the scientific and technical issues associated with biogenic CO2 emitted from stationary sources, and presenting an accounting framework for estimating biogenic CO2 emissions on the basis of information about the carbon cycle.

The EPA Scientific Advisory Board provided their peer review in the fall of 2012.

We are still in the process of reviewing their findings and recommendations and developing a response.

Accordingly, we are aware of the timeframe for the 3-year deferral and also are considering all regulatory options. At this time, we are still in internal deliberations and have not publicly announced any decisions.

Pat
Patricia Haman
Office of Congressional and Intergovernmental Relations
EPA
202-564-2806

Haman, Patricia

From: Deveny, Adrian (Merkley) [Adrian_Deveny@merkley.senate.gov]
Sent: Tuesday, April 23, 2013 9:13 AM
To: Haman, Patricia
Cc: Lewis, Josh
Subject: Re: Biogenic Emissions briefing

Yes- 12:30 works.

----- Original Message -----

From: Haman, Patricia [<mailto:Haman.Patricia@epa.gov>]
Sent: Tuesday, April 23, 2013 09:06 AM Eastern Standard Time
To: Deveny, Adrian (Merkley)
Cc: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Biogenic Emissions briefing

Adrian: Joe Goffman and Josh Lewis are going to be on the Hill for another meeting and would like to stop by to see you regarding your briefing request. Can you make some time at either 12:30 or 2:30? Josh is cc'd above. Thanks, Pat

Haman, Patricia

From: Deveny, Adrian (Merkley) [Adrian_Deveny@merkley.senate.gov]
Sent: Friday, April 19, 2013 6:28 PM
To: Haman, Patricia
Cc: Gray, Spencer (Baucus); Lewis, Josh
Subject: RE: Bio-genic emissions briefing request

That time works for us. Thank you.

From: Haman, Patricia [mailto:Haman.Patricia@epa.gov]
Sent: Friday, April 19, 2013 4:32 PM
To: Deveny, Adrian (Merkley)
Cc: Gray, Spencer (Baucus); Lewis, Josh
Subject: RE: Bio-genic emissions briefing request

I am looking at noon on May 7th. If I can make that work on my end, will that work for you? Monday and Friday look off the table completely that week and the three days in the middle are pretty packed already.

Patricia Haman
Office of Congressional Affairs
U.S. EPA
202-564-2806

From: Deveny, Adrian (Merkley) [mailto:Adrian_Deveny@merkley.senate.gov]
Sent: Thursday, April 18, 2013 7:34 PM
To: Haman, Patricia
Cc: Gray, Spencer (Baucus); Lewis, Josh
Subject: RE: Bio-genic emissions briefing request

Pat,
Given that this briefing will be 5 weeks from when we spoke, our hope is that you all will have made some further progress by then. I understand that you have limitations as to what you can present, but I still wanted to be clear with you what questions we would like to have answered. Our concern is fundamentally that if you have a long ways to go to answer these questions, then it would be difficult to see how a rule will be finalized prior to the deadline that would allow for a proposed rule and ample public comment.
Let's go forward with this briefing for that week and we'll decide where we go from there.
Thanks,
Adrian

From: Haman, Patricia [mailto:Haman.Patricia@epa.gov]
Sent: Thursday, April 18, 2013 4:22 PM
To: Deveny, Adrian (Merkley)
Cc: Gray, Spencer (Baucus); Lewis, Josh
Subject: RE: Bio-genic emissions briefing request

Thanks for getting back to me. I think we talked about the first bullet a bit on the phone a couple of weeks ago. We will be able to address next short term steps but not everything you are requesting below. Our internal discussions have a ways to go before those decisions can be shared. Would it be preferable to wait until that juncture?

Based on our last discussion, it was our intention to discuss the SAB comments and what the next steps are and to listen to your collective concerns.

Thanks, Pat

From: Deveny, Adrian (Merkley) [Adrian_Deveny@merkley.senate.gov]
Sent: Thursday, April 18, 2013 4:12 PM
To: Haman, Patricia
Cc: Gray, Spencer (Baucus)
Subject: RE: Bio-genic emissions briefing request

Thanks Pat,

I'm looping Spencer here since we are teaming up on this. It looks like the best time for us will actually be the first week after the recess, so that will be the week of May 6th. We will be inviting other Senate offices as well, including Stabenow, Wyden, and Tester, and potentially other offices.

To be clear, we would request that our in-person meeting address the following:

- A detailed explanation of the process and timing of EPA action to issue a proposal that includes a reasonable notice and comment period that will allow the Agency to promulgate a final rule by the July 2014 deadline. We'd like to know a detailed gameplan.
- A description of your efforts to ensure that the U.S. Department of Agriculture and U.S. Department of Energy, agencies with specific and applicable science and policy expertise in this area, are directly involved in policy making. For example, how does EPA plan to draw on existing bioenergy data collected by USDA or DOE to substitute or supplement EPA modeling?
- A description of the approach the Agency will take to ensure that any amendments to the Tailoring Rule account for the full benefits of the forest carbon cycle to the maximum extent practicable. We have raised the question before about accounting for carbon stocks nationally rather than on a forest or regional basis and would be specifically interested in the status of that discussion.

Let us know what date/time works for your team.

From: Haman, Patricia [mailto:Haman.Patricia@epa.gov]
Sent: Thursday, April 18, 2013 2:07 PM
To: Deveny, Adrian (Merkley)
Subject: RE: Bio-genic emissions briefing request

Hi Adrian: It has been quite the week so far. I thought I should check in on this time again so I can nail down people's calendars. Thanks, Pat

From: Haman, Patricia
Sent: Tuesday, April 16, 2013 9:41 AM
To: adrian_deveny@merkley.senate.gov
Subject: Bio-genic emissions briefing request

Hi Adrian: I did not forget your request. I have the appropriate staff organized to come over and/or participate via video conferencing on May 1 at 3:30 or 4:00. (I don't yet know if 4:00 will work for everyone but know 3:30 won't.) And, one of the key staffers cannot do the briefing May 2 or 3 so those dates are out for us.

So, how would Wed., May 1st at 3:30 or 4:00 work for you?

Thanks, Pat

Patricia Haman
Office of Congressional Affairs
U.S. EPA
202-564-2806

Haman, Patricia

From: Gray, Spencer (Baucus) [Spencer_Gray@baucus.senate.gov]
Sent: Friday, April 19, 2013 6:26 PM
To: Haman, Patricia; Deveny, Adrian (Merkley)
Cc: Lewis, Josh
Subject: RE: Bio-genic emissions briefing request

Works

From: Haman, Patricia [mailto:Haman.Patricia@epa.gov]
Sent: Friday, April 19, 2013 4:32 PM
To: Deveny, Adrian (Merkley)
Cc: Gray, Spencer (Baucus); Lewis, Josh
Subject: RE: Bio-genic emissions briefing request

I am looking at noon on May 7th. If I can make that work on my end, will that work for you? Monday and Friday look off the table completely that week and the three days in the middle are pretty packed already.

Patricia Haman
Office of Congressional Affairs
U.S. EPA
202-564-2806

From: Deveny, Adrian (Merkley) [mailto:Adrian_Deveny@merkley.senate.gov]
Sent: Thursday, April 18, 2013 7:34 PM
To: Haman, Patricia
Cc: Gray, Spencer (Baucus); Lewis, Josh
Subject: RE: Bio-genic emissions briefing request

Pat,
Given that this briefing will be 5 weeks from when we spoke, our hope is that you all will have made some further progress by then. I understand that you have limitations as to what you can present, but I still wanted to be clear with you what questions we would like to have answered. Our concern is fundamentally that if you have a long ways to go to answer these questions, then it would be difficult to see how a rule will be finalized prior to the deadline that would allow for a proposed rule and ample public comment.
Let's go forward with this briefing for that week and we'll decide where we go from there.
Thanks,
Adrian

From: Haman, Patricia [mailto:Haman.Patricia@epa.gov]
Sent: Thursday, April 18, 2013 4:22 PM
To: Deveny, Adrian (Merkley)
Cc: Gray, Spencer (Baucus); Lewis, Josh
Subject: RE: Bio-genic emissions briefing request

Thanks for getting back to me. I think we talked about the first bullet a bit on the phone a couple of weeks ago. We will be able to address next short term steps but not everything you are requesting below. Our internal discussions have a ways to go before those decisions can be shared. Would it be preferable to wait until that juncture?

Based on our last discussion, it was our intention to discuss the SAB comments and what the next steps are and to listen to your collective concerns.

Thanks, Pat

From: Deveny, Adrian (Merkley) [Adrian_Deveny@merkley.senate.gov]
Sent: Thursday, April 18, 2013 4:12 PM
To: Haman, Patricia
Cc: Gray, Spencer (Baucus)
Subject: RE: Bio-genic emissions briefing request

Thanks Pat,

I'm looping Spencer here since we are teaming up on this. It looks like the best time for us will actually be the first week after the recess, so that will be the week of May 6th. We will be inviting other Senate offices as well, including Stabenow, Wyden, and Tester, and potentially other offices.

To be clear, we would request that our in-person meeting address the following:

- A detailed explanation of the process and timing of EPA action to issue a proposal that includes a reasonable notice and comment period that will allow the Agency to promulgate a final rule by the July 2014 deadline. We'd like to know a detailed gameplan.
- A description of your efforts to ensure that the U.S. Department of Agriculture and U.S. Department of Energy, agencies with specific and applicable science and policy expertise in this area, are directly involved in policy making. For example, how does EPA plan to draw on existing bioenergy data collected by USDA or DOE to substitute or supplement EPA modeling?
- A description of the approach the Agency will take to ensure that any amendments to the Tailoring Rule account for the full benefits of the forest carbon cycle to the maximum extent practicable. We have raised the question before about accounting for carbon stocks nationally rather than on a forest or regional basis and would be specifically interested in the status of that discussion.

Let us know what date/time works for your team.

From: Haman, Patricia [mailto:Haman.Patricia@epa.gov]
Sent: Thursday, April 18, 2013 2:07 PM
To: Deveny, Adrian (Merkley)
Subject: RE: Bio-genic emissions briefing request

Hi Adrian: It has been quite the week so far. I thought I should check in on this time again so I can nail down people's calendars. Thanks, Pat

From: Haman, Patricia
Sent: Tuesday, April 16, 2013 9:41 AM
To: adrian_deveny@merkley.senate.gov
Subject: Bio-genic emissions briefing request

Hi Adrian: I did not forget your request. I have the appropriate staff organized to come over and/or participate via video conferencing on May 1 at 3:30 or 4:00. (I don't yet know if 4:00 will work for everyone but know 3:30 won't.) And, one of the key staffers cannot do the briefing May 2 or 3 so those dates are out for us.

So, how would Wed., May 1st at 3:30 or 4:00 work for you?

Thanks, Pat

Patricia Haman
Office of Congressional Affairs
U.S. EPA
202-564-2806



{In Archive} biomass
Josh Lewis to: Yates, Alice (Levin)

05/31/2011 03:39 PM

From: Josh Lewis/DC/USEPA/US
To: "Yates, Alice (Levin)" <Alice_Yates@levin.senate.gov>
Archive: This message is being viewed in an archive.

Hi Alice,

Got your voicemail. The three year deferral for biomass starts after the effective date of the final rule (as I think you know, final rule is expected before July 1).

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



{In Archive} EPA Response to Rep Boren's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: wendy.kirchoff, jason.buckner

01/12/2011 11:12 AM

From: Josh Lewis/DC/USEPA/US
To: wendy.kirchoff@mail.house.gov, jason.buckner@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



boren.pdf
Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Dan Boren
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Boren:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

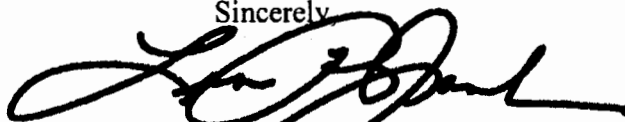
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO₂ emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO₂ emissions in ways that are scientifically sound and also manageable in practice.

EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO₂ emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO₂ emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO₂. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO₂ at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson



{In Archive} EPA Response to Rep Bishop's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: wayne.bradshaw, cody.stewart

01/12/2011 11:16 AM

From: Josh Lewis/DC/USEPA/US
To: wayne.bradshaw@mail.house.gov, cody.stewart@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



bishop.pdf
Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Rob Bishop
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Bishop:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

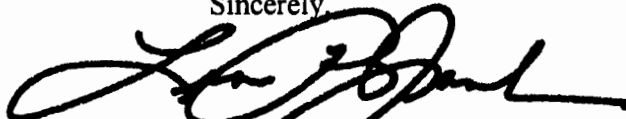
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO2 emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO2 emissions in ways that are scientifically sound and also manageable in practice.

EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO2 emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO2 emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO2. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO2 at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson



**{In Archive} Fw: EPA Response to Rep. DeFazio's Dec 10th letter re:
biomass and the tailoring rule**
Josh Lewis to: travis.joseph

01/12/2011 10:49 AM

From: Josh Lewis/DC/USEPA/US
To: travis.joseph@mail.house.gov
Archive: This message is being viewed in an archive.

Sorry for not including you when I sent this over a few minutes ago...

----- Forwarded by Josh Lewis/DC/USEPA/US on 01/12/2011 10:49 AM -----

From: Josh Lewis/DC/USEPA/US
To: penny.dodge@mail.house.gov, AUKE.MAHARPIERSMA@MAIL.HOUSE.GOV
Date: 01/12/2011 10:45 AM
Subject: EPA Response to Rep. DeFazio's Dec 10th letter re: biomass and the tailoring rule

Please see attached, and let me know if you have any questions. (FYI, in the next 1/2 hour or so I'll be sending responses to the other 31 members who signed the Dec 10th letter on which Rep. DeFazio was the lead signature)



DeFazio_Biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Peter DeFazio
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman DeFazio:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

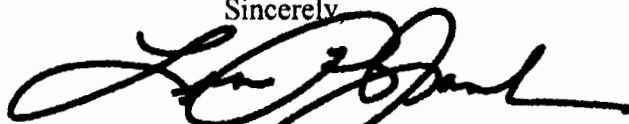
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO2 emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO2 emissions in ways that are scientifically sound and also manageable in practice.

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Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO2 emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO2. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO2 at such sources is simply the combustion of biomass fuel.

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Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson



{In Archive} EPA Response to Rep Butterfield's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: tonya.williams, jerome.murray

01/12/2011 11:08 AM

From: Josh Lewis/DC/USEPA/US
To: tonya.williams@mail.house.gov, jerome.murray@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Butterfield_Biomass.pdf
Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable G.K. Butterfield
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Butterfield:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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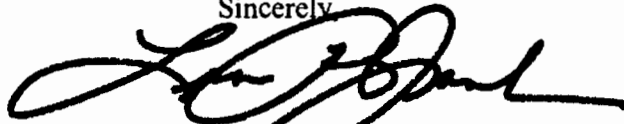
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Sincerely,

A handwritten signature in black ink, appearing to read "Liza P. Jackson", written over a horizontal line.

Liza P. Jackson



{In Archive} EPA Response to Rep Hastings' Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: TARA.ROBERTSON, brianne.miller

01/12/2011 11:07 AM

From: Josh Lewis/DC/USEPA/US

To: TARA.ROBERTSON@MAIL.HOUSE.GOV, brianne.miller@mail.house.gov

Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Hastings_Biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Doc Hastings
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Hastings:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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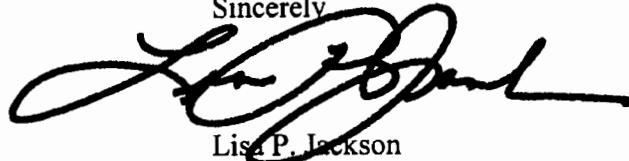
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Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", is written over the typed name.

Lisa P. Jackson



{In Archive} EPA Response to Rep Smith's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: shana.chandler, jonathon.pawlow

01/12/2011 11:15 AM

From: Josh Lewis/DC/USEPA/US
To: shana.chandler@mail.house.gov, jonathon.pawlow@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



smith.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Adam Smith
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Smith:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

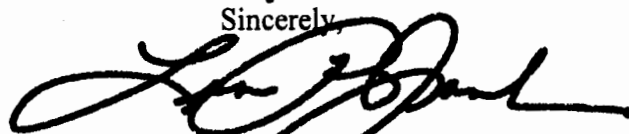
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO2 emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO2 emissions in ways that are scientifically sound and also manageable in practice.

EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO2 emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO2 emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO2. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO2 at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson



{In Archive} RE: biomass follow up
Ruffo, Peter (Feinstein) to: Josh Lewis

05/18/2011 12:43 PM

From: "Ruffo, Peter (Feinstein)" <Peter_Ruffo@feinstein.senate.gov>
To: Josh Lewis/DC/USEPA/US@EPA
Archive: This message is being viewed in an archive.

Thanks Josh. I really appreciate it.

-----Original Message-----

From: Lewis.Josh@epamail.epa.gov [mailto:Lewis.Josh@epamail.epa.gov]
Sent: Wednesday, May 18, 2011 11:15 AM
To: Ruffo, Peter (Feinstein)
Subject: biomass follow up

Peter,

Here's a link to the latest information regarding the biomass deferral:
<http://www.epa.gov/nsr/actions.html>

You'll have to scroll down a couple of entries to the heading, "Proposed Deferral for CO2 emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration (PSD) and Title V Programs and Guidance for Determining Best Available Control Technology for Reducing Carbon Dioxide Emissions from Bioenergy Production."

You'll note that there's a federal register notice there, and in that notice you'll see that the comment period closed on May 5th.

Call or email if you have any other Qs.

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



{In Archive} EPA Response to Rep. Schrader's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: Pittleman, Ethan

01/12/2011 11:03 AM

From: Josh Lewis/DC/USEPA/US
To: "Pittleman, Ethan" <Ethan.Pittleman@mail.house.gov>
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Schrader_Biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Kurt Schrader
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Schrader:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

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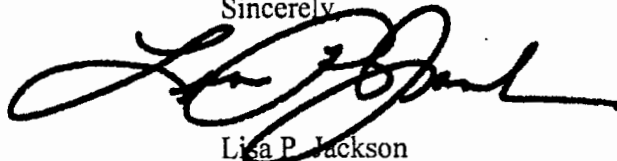
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Lisa P. Jackson



{In Archive} EPA Response to Rep Bishop's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: phyllis.hallmon, jonathan.halpern

01/12/2011 11:09 AM

From: Josh Lewis/DC/USEPA/US
To: phyllis.hallmon@mail.house.gov, jonathan.halpern@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Bishop_Biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Sanford Bishop
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Bishop:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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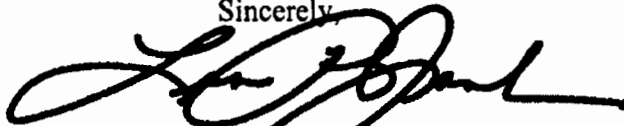
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Sincerely,

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Lisa P. Jackson



{In Archive} biomass follow up
Josh Lewis to: peter_ruffo

05/18/2011 11:15 AM

From: Josh Lewis/DC/USEPA/US
To: peter_ruffo@feinstein.senate.gov
Archive: This message is being viewed in an archive.

Peter,

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You'll have to scroll down a couple of entries to the heading, "Proposed Deferral for CO2 emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration (PSD) and Title V Programs and Guidance for Determining Best Available Control Technology for Reducing Carbon Dioxide Emissions from Bioenergy Production."

You'll note that there's a federal register notice there, and in that notice you'll see that the comment period closed on May 5th.

Call or email if you have any other Qs.

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



{In Archive} Re: EPA Announcement 

Josh Lewis to: Osborne, Beth

Cc: "Meyer, Patrick"

01/12/2011 12:18 PM

From: Josh Lewis/DC/USEPA/US
To: "Osborne, Beth" <Beth.Osborne@mail.house.gov>
Cc: "Meyer, Patrick" <Patrick.Meyer@mail.house.gov>
Archive: This message is being viewed in an archive.



DeFazio_Biomass.pdf

Identical letters went to the other 31 members who signed the incoming.

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550

"Osborne, Beth" Thanks josh, could you also send us the letter th...

01/12/2011 12:05:58 PM

From: "Osborne, Beth" <Beth.Osborne@mail.house.gov>
To: Josh Lewis/DC/USEPA/US@EPA
Cc: "Meyer, Patrick" <Patrick.Meyer@mail.house.gov>
Date: 01/12/2011 12:05 PM
Subject: Re: EPA Announcement

Thanks josh, could you also send us the letter that was sent to Defazio, Walden, et al?

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Lewis.Josh@epamail.epa.gov <Lewis.Josh@epamail.epa.gov>
To: Osborne, Beth
Cc: Meyer, Patrick
Sent: Wed Jan 12 11:43:38 2011
Subject: Re: EPA Announcement

Here's the press release that will be going out very shortly...

January 12, 2011

EPA to Defer GHG Permitting Requirements for Industries that Use Biomass

Three-year deferral allows for further examination of scientific and technical issues associated with counting these emissions

WASHINGTON - The U.S. Environmental Protection Agency (EPA) is announcing its plan to defer, for three years, greenhouse gas (GHG) permitting requirements for carbon dioxide (CO2) emissions from biomass-fired and other biogenic sources. The agency will use this time

to seek further independent scientific analysis of this complex issue and then to develop a rulemaking on how these emissions should be treated in determining whether a Clean Air Act permit is required.

"We are working to find a way forward that is scientifically sound and manageable for both producers and consumers of biomass energy. In the coming years we will develop a commonsense approach that protects our environment and encourages the use of clean energy," said EPA Administrator Lisa P. Jackson. "Renewable, homegrown power sources are essential to our energy future, and an important step to cutting the pollution responsible for climate change."

By July 2011, EPA plans to complete an action on a proposed rulemaking that will defer permitting requirements for CO2 emissions from biomass-fired and other biogenic sources for three years. During the three-year period, the agency will seek input on critical scientific issues from its partners within the federal government and from outside scientists who have relevant expertise. EPA will also further consider the more than 7,000 comments it received from its July 2010 Call for Information, including comments noting that burning certain types of biomass may emit the same amount of CO2 emissions that would be emitted if they were not burned as fuel, while others may result in a net increase in CO2 emissions. Before the end of the three-year period, the agency intends to issue a second rulemaking that determines how these emissions should be treated or counted under GHG permitting requirements.

The agency will also issue guidance shortly that will provide a basis that state or local permitting authorities may use to conclude that the use of biomass as fuel is the best available control technology for GHG emissions until the agency can finalize the three-year deferral in July.

In a separate but related letter, EPA is notifying the National Alliance of Forest Owners that it will grant its petition to reconsider the portion of the May 2010 tailoring rule that addresses the same issue.

CO2 emissions from biomass-fired and other biogenic sources are generated during the combustion or decomposition of biologically based material. Sources covered by this decision would include facilities that emit CO2 as a result of burning forest or agricultural products for energy, wastewater treatment and livestock management facilities, landfills and fermentation processes for ethanol production.

On January 2, 2011, air permitting requirements began for large GHG emitting industries that are planning to build new facilities or make major modifications to existing ones. These facilities must obtain air permits and implement energy efficiency measures or, where available, cost-effective technology to reduce their GHG emissions. This includes the nation's largest GHG emitters, such as power plants and refineries. Emissions from small sources, such as farms and restaurants, are not covered by these GHG permitting requirements.

More information: <http://www.epa.gov/nsr>

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550

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| From: |
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| "Osborne, Beth" <Beth.Osborne@mail.house.gov>
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| To: |
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| Josh Lewis/DC/USEPA/US@EPA
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| Cc: |
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| "Meyer, Patrick" <Patrick.Meyer@mail.house.gov>
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| EPA Announcement
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Josh,

Could you please send Patrick and me details on today's biomass announcement when they are public? David mentioned that we'd get something around 10, so it may be on its way, but we just wanted to make sure.

Thanks!

Beth

Beth Osborne
Legislative Director
U.S. Rep. Inslee

*Please note our new office location in 2329 Rayburn, beginning December 7.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Peter DeFazio
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman DeFazio:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

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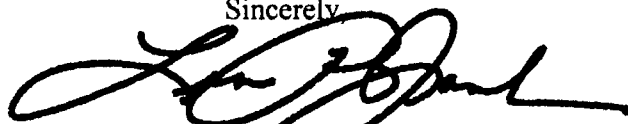
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Lisa P. Jackson



{In Archive} EPA Response to Rep. Walden's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: nathan.rea, valerie.henry

01/12/2011 11:03 AM

From: Josh Lewis/DC/USEPA/US
To: nathan.rea@mail.house.gov, valerie.henry@mail.house.gov
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Please see attached, and let me know if you have any questions.



Walden_Biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Greg Walden
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Walden:

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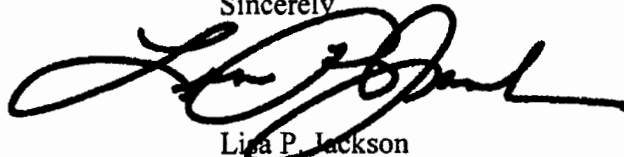
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I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson



{In Archive} EPA Response to Rep Michaud's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: nora.todd, peter.chandler

01/12/2011 11:07 AM

From: Josh Lewis/DC/USEPA/US
To: nora.todd@mail.house.gov, peter.chandler@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Michaud_Biomass.pdf
Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Michael Michaud
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Michaud:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

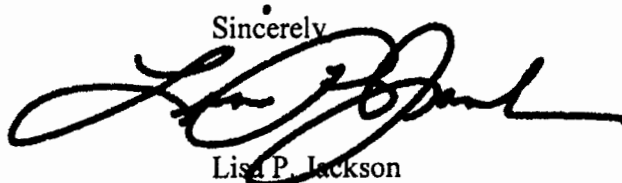
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Lisa P. Jackson



{In Archive} Heads up on EPA press release going out shortly: EPA to Defer GHG Permitting Requirements for Industries that Use Biomass

Josh Lewis to: mike_catanzaro, Sugiyama, George (EPW)

01/12/2011 11:29 AM

From: Josh Lewis/DC/USEPA/US
To: mike_catanzaro@epw.senate.gov, "Sugiyama, George (EPW)"
<George_Sugiyama@epw.senate.gov>
Archive: This message is being viewed in an archive.

Wanted to pass along the following release. Call or email if you have any questions...

January 12, 2011

EPA to Defer GHG Permitting Requirements for Industries that Use Biomass

Three-year deferral allows for further examination of scientific and technical issues associated with counting these emissions

WASHINGTON - The U.S. Environmental Protection Agency (EPA) is announcing its plan to defer, for three years, greenhouse gas (GHG) permitting requirements for carbon dioxide (CO₂) emissions from biomass-fired and other biogenic sources. The agency will use this time to seek further independent scientific analysis of this complex issue and then to develop a rulemaking on how these emissions should be treated in determining whether a Clean Air Act permit is required.

"We are working to find a way forward that is scientifically sound and manageable for both producers and consumers of biomass energy. In the coming years we will develop a commonsense approach that protects our environment and encourages the use of clean energy," said EPA Administrator Lisa P. Jackson. "Renewable, homegrown power sources are essential to our energy future, and an important step to cutting the pollution responsible for climate change."

By July 2011, EPA plans to complete an action on a proposed rulemaking that will defer permitting requirements for CO₂ emissions from biomass-fired and other biogenic sources for three years. During the three-year period, the agency will seek input on critical scientific issues from its partners within the federal government and from outside scientists who have relevant expertise. EPA will also further consider the more than 7,000 comments it received from its July 2010 Call for Information, including comments noting that burning certain types of biomass may emit the same amount of CO₂ emissions that would be emitted if they were not burned as fuel, while others may result in a net increase in CO₂ emissions. Before the end of the three-year period, the agency intends to issue a second rulemaking that determines how these emissions should be treated or counted under GHG permitting requirements.

The agency will also issue guidance shortly that will provide a basis that state or local permitting authorities may use to conclude that the use of biomass as fuel is the best available control technology for GHG emissions until the agency can finalize the three-year deferral in July.

In a separate but related letter, EPA is notifying the National Alliance of Forest Owners that it will grant its petition to reconsider the portion of the May 2010 tailoring rule that addresses the same issue.

CO₂ emissions from biomass-fired and other biogenic sources are generated during the combustion or decomposition of biologically based material. Sources covered by this decision would include facilities that emit CO₂ as a result of burning forest or agricultural products for energy, wastewater treatment and livestock management facilities, landfills and fermentation processes for ethanol production.

On January 2, 2011, air permitting requirements began for large GHG emitting industries that are planning to build new facilities or make major modifications to existing ones. These facilities must obtain air permits and implement energy efficiency measures or, where available, cost-effective technology to reduce their

GHG emissions. This includes the nation's largest GHG emitters, such as power plants and refineries. Emissions from small sources, such as farms and restaurants, are not covered by these GHG permitting requirements.

More information: <http://www.epa.gov/nsr>

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



{In Archive} Fw: biomass tailoring rule

Josh Lewis to: Meghan_Leahy

Cc: Michael Ochs

07/12/2010 09:37 AM

From: Josh Lewis/DC/USEPA/US
To: Meghan_Leahy@kerry.senate.gov
Cc: Michael Ochs/R1/USEPA/US@EPA
Archive: This message is being viewed in an archive.

Meghan,

Just FYI, on Friday we responded to the Senate ltr we recently received on this topic. Attached is a copy.



070910 EPA response to Senate ltr re tailoring biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550

----- Forwarded by Michael Ochs/R1/USEPA/US on 06/30/2010 02:22 PM -----

From: Michael Ochs/R1/USEPA/US
To: Meghan_Leahy@kerry.senate.gov
Date: 06/30/2010 02:14 PM
Subject: Fw: biomass tailoring rule

Meghan -

Below is a letter from Josh Lewis, my counterpart in HQ OCIR, that provides the latest information regarding EPA's position. Josh will keep you updated regarding any new developments that may occur in the near future. Please give him a call if you have any questions regarding the letter. Hope this is helpful.

Michael Ochs
Congressional/State Relations
U.S. EPA New England
5 Post Office Sq, Suite 100
ORA01-1
Boston, MA 02114-2023
Phone: (617) 918-1066
Blackberry: 857-829-8153
FAX: 617-918-0066

----- Forwarded by Michael Ochs/R1/USEPA/US on 06/30/2010 02:11 PM -----

From: Josh Lewis/DC/USEPA/US
To: Michael Ochs/R1/USEPA/US@EPA
Date: 06/30/2010 02:10 PM
Subject: tailoring rule



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 9 2010

OFFICE OF
AIR AND RADIATION

The Honorable Blanche Lincoln
United State Senate
Washington, D.C. 20515

Dear Senator Lincoln:

Thank you for your July 2, 2010, letter to Administrator Jackson raising concerns regarding the treatment of biomass combustion emissions in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule (the "Tailoring Rule"). At her request, I am writing to respond.

I would like to address your comments about the treatment of biomass combustion emissions in the final Tailoring Rule and to assure you that we plan to further consider how the PSD and Title V permitting programs apply to these emissions.

As you noted, the final Tailoring Rule does not exclude biomass-derived carbon dioxide emissions from the calculations for determining PSD and Title V applicability for GHGs. To clarify a point made in your letter, the proposed Tailoring Rule also did not propose to exclude biomass emissions from the calculations for determining PSD and Title V applicability for GHGs. The proposed Tailoring Rule pointed to EPA's Inventory of Greenhouse Gas Emissions and Sinks for guidance on how to estimate a source's GHG emissions on a CO₂-equivalent basis using global warming potential (GWP) values¹. This narrow reference to the use of GWP values for estimating GHG emissions was provided to offer consistent guidance on how to calculate these emissions and not as an indication, direct or implied, that biomass emissions would be excluded from permitting applicability merely by association with the national inventory.

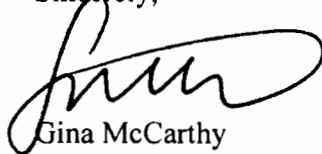
We recognize the concerns you raise on the treatment of biomass combustion emissions for air permitting purposes. As stated in the final Tailoring Rule, we are mindful of the role that biomass or biogenic fuels and feedstocks could play in reducing anthropogenic GHG emissions, and we do not dispute observations that many federal and international rules and policies treat biogenic and fossil fuel sources of CO₂ emissions differently. Nevertheless, we explained that the legal basis for the Tailoring Rule, reflecting specifically the overwhelming permitting burdens that would be created under the statutory emissions thresholds, does not itself provide a rationale for excluding all emissions of CO₂ from combustion of a particular fuel, even a biogenic one.

¹ See 74 FR 55351, under the definition for 'carbon dioxide equivalent'.

The fact that in the Tailoring Rule EPA did not take final action one way or another concerning such an exclusion does not mean that EPA has decided that there is no basis for treating biomass CO₂ emissions differently from fossil fuel CO₂ emissions under the Clean Air Act's PSD and Title V programs. The Agency is committed to working with stakeholders to examine appropriate ways to treat biomass combustion emissions, and to assess the associated impacts on the development of policies and programs that recognize the potential for biomass to reduce overall GHG emissions and enhance U.S. energy security. Accordingly, today we issued a Call for Information² asking for stakeholder input on approaches to addressing GHG emissions from bioenergy and other biogenic sources, and the underlying science that should inform these approaches. Taking into account stakeholder feedback, we will examine how we might address such emissions under the PSD and Title V programs. We will move expeditiously on this topic over the next several months. As we do so, we will continue to work with key stakeholders and partners, including the U.S. Department of Agriculture, whose offices bring recognized expertise and critical perspectives to the issues at hand.

Thank you again for your continued interest in this issue. If you have any questions, please contact me, or your staff may contact Cheryl Mackay in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,



Gina McCarthy
Assistant Administrator

² Posted online at http://www.epa.gov/climatechange/emissions/biogenic_emissions.html



{In Archive} EPA Response to Rep Thompson's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: matthew.brennan, jordan.clark

01/12/2011 11:11 AM

From: Josh Lewis/DC/USEPA/US
To: matthew.brennan@mail.house.gov, jordan.clark@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Thompson_Biomass.pdf

Josh Lewis

USEPA/Office of Congressional and Intergovernmental Relations

phone: 202-564-2095

fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable G.T. Thompson
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Thompson:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

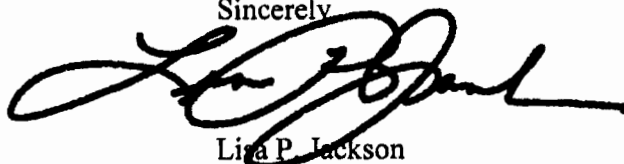
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EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO₂ emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

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I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

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Lisa P. Jackson



{In Archive} EPA Response to Rep Rogers' Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: marshall.macomber, chris.brinson

01/12/2011 11:14 AM

From: Josh Lewis/DC/USEPA/US
To: marshall.macomber@mail.house.gov, chris.brinson@mail.house.gov
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Please see attached, and let me know if you have any questions.



rogers.pdf
Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Mike Rogers
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Rogers:

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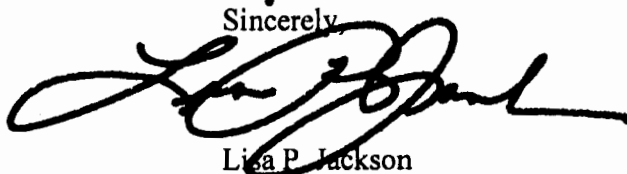
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Lisa P. Jackson



{In Archive} EPA Response to Rep Simpson's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: lindsay.slater, malisah.small

01/12/2011 11:07 AM

From: Josh Lewis/DC/USEPA/US

To: lindsay.slater@mail.house.gov, malisah.small@mail.house.gov

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Please see attached, and let me know if you have any questions.



Simpson_Biomass.pdf

Josh Lewis

USEPA/Office of Congressional and Intergovernmental Relations

phone: 202-564-2095

fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Michael Simpson
U.S. House of Representatives
Washington, D.C. 20515

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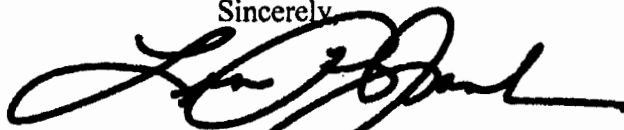
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Josh Lewis to: Laura.Abshire, jarrod.yates

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Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Ross_Biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Mike Ross
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Ross:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

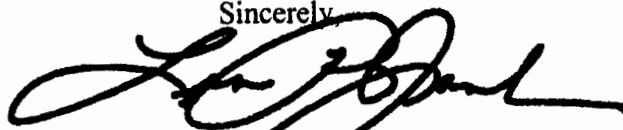
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO2 emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO2 emissions in ways that are scientifically sound and also manageable in practice.

EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO2 emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO2 emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO2. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO2 at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson



{In Archive} EPA Response to Rep Larsen's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: kimberly.johnston, jasper.macslarrow

01/12/2011 11:09 AM

From: Josh Lewis/DC/USEPA/US

To: kimberly.johnston@mail.house.gov, jasper.macslarrow@mail.house.gov

Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Larsen_Biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Rick Larsen
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Larsen:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

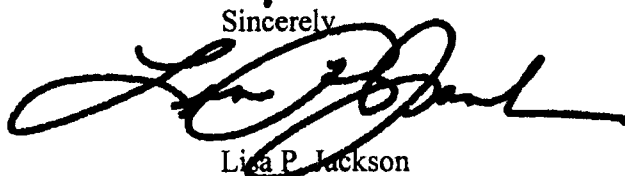
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I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over the word "Sincerely,".

Lisa P. Jackson



**{In Archive} EPA Response to Rep. McMorris Rodgers' Dec 10th letter re:
biomass and the tailoring rule**
Josh Lewis to: kimberly.betz

01/12/2011 11:25 AM

From: Josh Lewis/DC/USEPA/US
To: kimberly.betz@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Rodgers_biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Cathy McMorris Rodgers
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman McMorris Rodgers:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

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As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

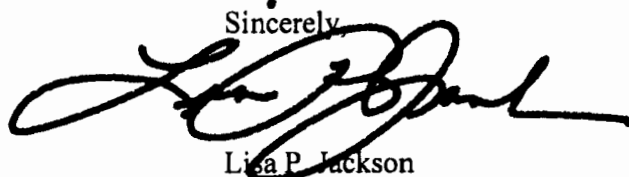
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO₂ emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO₂ emissions in ways that are scientifically sound and also manageable in practice.

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I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Jo Ann Emerson
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Emerson:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

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As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

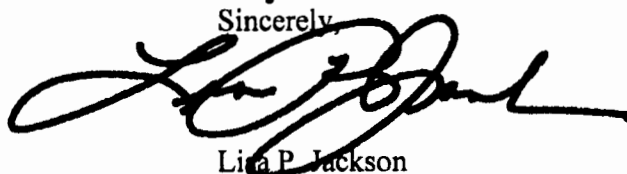
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A handwritten signature in black ink, appearing to read "Lita P. Jackson", written over a horizontal line.

Lita P. Jackson



{In Archive} EPA Response to Rep Myrick's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: jordan.moon, sarah.hale

01/12/2011 11:15 AM

From: Josh Lewis/DC/USEPA/US
To: jordan.moon@mail.house.gov, sarah.hale@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



myrick.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Sue Myrick
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Myrick:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

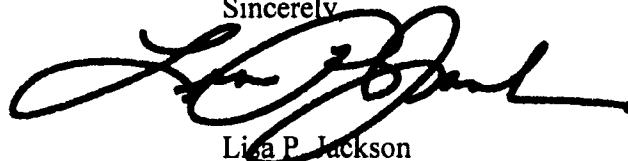
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Sincerely,

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Lisa P. Jackson



{In Archive} EPA Response to Rep Capito's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: joel.brubaker, aaron.spork

01/12/2011 11:15 AM

From: Josh Lewis/DC/USEPA/US
To: joel.brubaker@mail.house.gov, aaron.spork@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



capito.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Shelley Moore Capito
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Capito:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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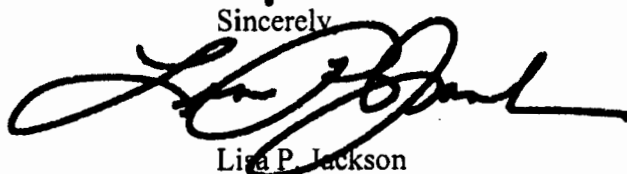
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Lisa P. Jackson



{In Archive} EPA Response to Rep Rehberg's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: jay.martin, kristin.smith

01/12/2011 11:15 AM

From: Josh Lewis/DC/USEPA/US
To: jay.martin@mail.house.gov, kristin.smith@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



rehberg.pdf
Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Denny Rehberg
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Rehberg:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

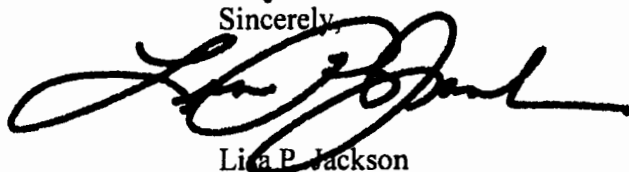
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO2 emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO2 emissions in ways that are scientifically sound and also manageable in practice.

EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO2 emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO2 emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO2. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO2 at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson



{In Archive} EPA Response to Rep Reichert's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: jason.edgar, chris.miller

01/12/2011 11:16 AM

From: Josh Lewis/DC/USEPA/US

To: jason.edgar@mail.house.gov, chris.miller@mail.house.gov

Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



reichert.pdf

Josh Lewis

USEPA/Office of Congressional and Intergovernmental Relations

phone: 202-564-2095

fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable David Reichert
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Reichert:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

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As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

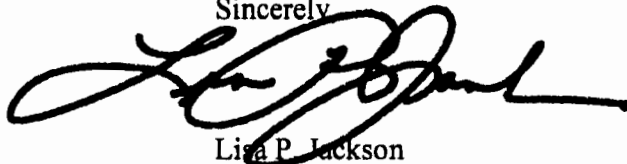
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Sincerely

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Lisa P. Jackson



{In Archive} EPA Response to Rep Dicks' Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: George.behan, PETER.MODAFF

01/12/2011 11:06 AM

From: Josh Lewis/DC/USEPA/US

To: George.behan@mail.house.gov, PETER.MODAFF@MAIL.HOUSE.GOV

Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Dicks_Biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Norm Dicks
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Dicks:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

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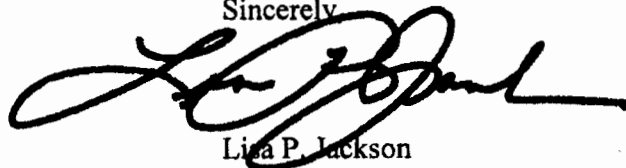
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Lisa P. Jackson



{In Archive} EPA Response to Rep Pitts' Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: gabe.neville, monica.volante

01/12/2011 11:16 AM

From: Josh Lewis/DC/USEPA/US
To: gabe.neville@mail.house.gov, monica.volante@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



pitts.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Joseph Pitts
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Pitts:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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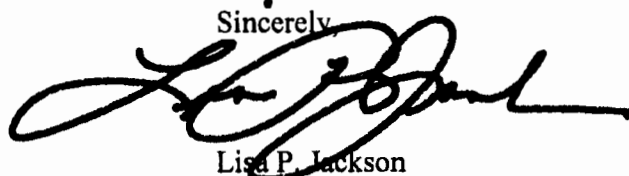
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Lisa P. Jackson



{In Archive} EPA Response to Rep Kind's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: erik.olson, travis.robey

01/12/2011 11:11 AM

From: Josh Lewis/DC/USEPA/US
To: erik.olson@mail.house.gov, travis.robey@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Kind_Biomass.pdf
Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Ron Kind
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Kind:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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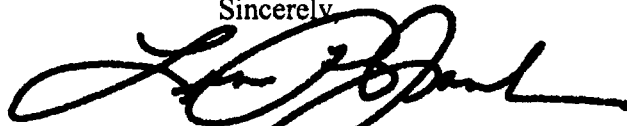
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{In Archive} EPA Response to Rep Sullivan's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: elizabeth.bartheld, John.Rainbolt

01/12/2011 11:11 AM

From: Josh Lewis/DC/USEPA/US
To: elizabeth.bartheld@mail.house.gov, John.Rainbolt@mail.house.gov
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sullivan.pdf
Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable John Sullivan
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Sullivan:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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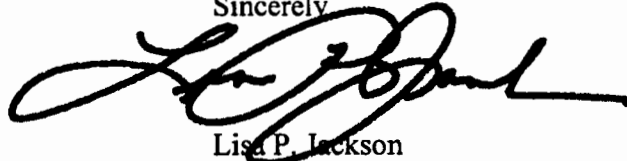
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Sincerely,

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Lisa P. Jackson



{In Archive} EPA Response to Rep Herger's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: derek.harley, darin.thacker

01/12/2011 11:11 AM

From: Josh Lewis/DC/USEPA/US
To: derek.harley@mail.house.gov, darin.thacker@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Herger_Biomass.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Wally Herger
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Herger:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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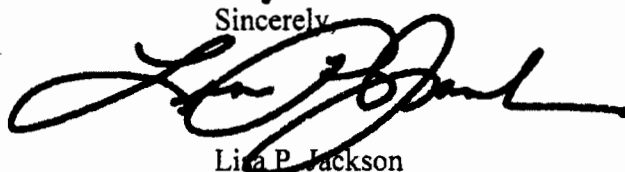
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EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO2 emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO2 emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO2. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO2 at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lita P. Jackson", written over a horizontal line.

Lita P. Jackson



{In Archive} Re: question about biomass 
Josh Lewis to: DeMeester, Julie (Durbin)

06/22/2010 02:20 PM

From: Josh Lewis/DC/USEPA/US
To: "DeMeester, Julie (Durbin)" <Julie_DeMeester@durbin.senate.gov>

Archive: This message is being viewed in an archive.

Julie,

I'm not sure I know how to address this from a contracts perspective, but there's been a lot of discussion of biomass as a result of our recent tailoring final rule. As a starting point, see the attached response we recently sent to Weyerhaeuser. Am happy to talk further...just give me a call.



Weyerhaeuser letter 060210.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550

"DeMeester, Julie (Durbin)" Hello Josh, We had a constituent call i...

06/22/2010 10:47:30 AM

From: "DeMeester, Julie (Durbin)" <Julie_DeMeester@durbin.senate.gov>
To: Josh Lewis/DC/USEPA/US@EPA
Date: 06/22/2010 10:47 AM
Subject: question about biomass

Hello Josh,

We had a constituent call inquiring more about the EPA definition of biomass. They said they are having trouble getting contracts because EPA is treating biomass the same as coal carbon emissions. Can you send me EPA's position on biomass and how it came to that conclusion? Our office is not trying to demean your efforts- I am just looking for a good response to give this constituent.

Many thanks,
Julie

Julie DeMeester, Ph.D.
Legislative fellow
Senator Richard Durbin



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 2 2010

OFFICE OF
AIR AND RADIATION

Mr. Daniel S. Fulton
Weyerhaeuser Corporation
P.O. Box 9777
Federal Way, WA 98063-9777

Dear Mr. Fulton:

Thank you for your May 24 letter to Administrator Jackson raising concerns regarding the treatment of biomass-derived carbon emissions in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Tailoring Rule (the "Tailoring Rule"). At her request, I am writing to respond.

As you noted, the Tailoring Rule does not explicitly exclude biomass-derived carbon dioxide emissions from the calculations for determining PSD applicability for GHGs. That is due simply to the fact that the purpose of the Tailoring Rule is to address the overwhelming burdens on permitting authorities that would otherwise occur across all industries if the existing statutory PSD applicability thresholds of 100 and 250 tons per year were applied to GHGs on January 2, 2011. Hence, the rule focused on across-the-board, rather than fuel- or industry-specific, thresholds and distinctions.

In the preamble to the rule we did recognize and discuss the importance of the treatment of biomass for a variety of industries and for a variety of key policy objectives; hence, the Agency is committed to working with stakeholders to examine whether treating biomass-derived carbon emissions as carbon neutral is appropriate, and to assess the associated impacts on the development of policies and programs that recognize the potential for biomass to reduce overall GHG emissions and enhance U.S. energy security.

Specifically, we intend to seek comment first on the carbon neutrality of biogenic carbon dioxide emissions, and then make an assessment on that issue. Then, we will examine how we might address such emissions under the PSD and title V programs through a future action, such as a separate Advance Notice of Proposed Rulemaking (ANPR). We are currently determining our options for the timing and form of these activities. I believe that the opportunity for EPA and stakeholders to focus on these issues will be a critical step in moving forward.

In addition, as you know, no source will be subject to regulation for GHG emissions prior to January 2, 2011. At that time, only sources already subject to PSD for non-GHG emissions will be required to obtain permits that also address their GHGs in accordance with the terms of the Tailoring Rule. Moreover, only in July 2011 will sources not already subject to PSD be

required to obtain permits solely because of their GHG emissions, provided those emissions exceed 100,000 tpy CO₂e. To assist permitting authorities with respect to BACT and a variety of other PSD-related issues, we will publish guidance on these issues before the end of this year.

Again, I appreciate your interest and concern with respect to these issues and look forward to discussing with you the role of biomass-derived fuels in supporting our nation's energy and climate change objectives.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina McCarthy', with a large, sweeping initial 'G' and several horizontal strokes.

Gina McCarthy
Assistant Administrator



{In Archive} Fw: question about biomass
Josh Lewis to: DeMeester, Julie (Durbin)

07/12/2010 09:35 AM

From: Josh Lewis/DC/USEPA/US
To: "DeMeester, Julie (Durbin)" <Julie_DeMeester@durbin.senate.gov>
Archive: This message is being viewed in an archive.

Julie,

Just FYI, on Friday we responded to the Senate ltr we recently received on this topic. Attached is a copy.



070910 EPA response to Senate ltr re tailoring biomass.pdf

Josh

----- Forwarded by Josh Lewis/DC/USEPA/US on 07/12/2010 09:34 AM -----

From: Josh Lewis/DC/USEPA/US
To: "DeMeester, Julie (Durbin)" <Julie_DeMeester@durbin.senate.gov>
Date: 06/22/2010 02:20 PM
Subject: Re: question about biomass

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Weyerhaeuser letter 060210.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550

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Many thanks,
Julie

Julie DeMeester, Ph.D.
Legislative fellow
Senator Richard Durbin



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 9 2010

OFFICE OF
AIR AND RADIATION

The Honorable Blanche Lincoln
United State Senate
Washington, D.C. 20515

Dear Senator Lincoln:

Thank you for your July 2, 2010, letter to Administrator Jackson raising concerns regarding the treatment of biomass combustion emissions in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule (the "Tailoring Rule"). At her request, I am writing to respond.

I would like to address your comments about the treatment of biomass combustion emissions in the final Tailoring Rule and to assure you that we plan to further consider how the PSD and Title V permitting programs apply to these emissions.

As you noted, the final Tailoring Rule does not exclude biomass-derived carbon dioxide emissions from the calculations for determining PSD and Title V applicability for GHGs. To clarify a point made in your letter, the proposed Tailoring Rule also did not propose to exclude biomass emissions from the calculations for determining PSD and Title V applicability for GHGs. The proposed Tailoring Rule pointed to EPA's Inventory of Greenhouse Gas Emissions and Sinks for guidance on how to estimate a source's GHG emissions on a CO₂-equivalent basis using global warming potential (GWP) values¹. This narrow reference to the use of GWP values for estimating GHG emissions was provided to offer consistent guidance on how to calculate these emissions and not as an indication, direct or implied, that biomass emissions would be excluded from permitting applicability merely by association with the national inventory.

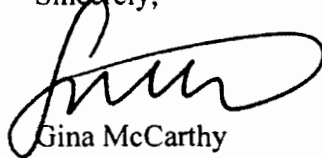
We recognize the concerns you raise on the treatment of biomass combustion emissions for air permitting purposes. As stated in the final Tailoring Rule, we are mindful of the role that biomass or biogenic fuels and feedstocks could play in reducing anthropogenic GHG emissions, and we do not dispute observations that many federal and international rules and policies treat biogenic and fossil fuel sources of CO₂ emissions differently. Nevertheless, we explained that the legal basis for the Tailoring Rule, reflecting specifically the overwhelming permitting burdens that would be created under the statutory emissions thresholds, does not itself provide a rationale for excluding all emissions of CO₂ from combustion of a particular fuel, even a biogenic one.

¹ See 74 FR 55351, under the definition for 'carbon dioxide equivalent'.

The fact that in the Tailoring Rule EPA did not take final action one way or another concerning such an exclusion does not mean that EPA has decided that there is no basis for treating biomass CO₂ emissions differently from fossil fuel CO₂ emissions under the Clean Air Act's PSD and Title V programs. The Agency is committed to working with stakeholders to examine appropriate ways to treat biomass combustion emissions, and to assess the associated impacts on the development of policies and programs that recognize the potential for biomass to reduce overall GHG emissions and enhance U.S. energy security. Accordingly, today we issued a Call for Information² asking for stakeholder input on approaches to addressing GHG emissions from bioenergy and other biogenic sources, and the underlying science that should inform these approaches. Taking into account stakeholder feedback, we will examine how we might address such emissions under the PSD and Title V programs. We will move expeditiously on this topic over the next several months. As we do so, we will continue to work with key stakeholders and partners, including the U.S. Department of Agriculture, whose offices bring recognized expertise and critical perspectives to the issues at hand.

Thank you again for your continued interest in this issue. If you have any questions, please contact me, or your staff may contact Cheryl Mackay in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina McCarthy', with a large, sweeping loop at the end.

Gina McCarthy
Assistant Administrator

² Posted online at http://www.epa.gov/climatechange/emissions/biogenic_emissions.html



{In Archive} EPA Response to Rep Broun's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: david.bowser, paige.anderson

01/12/2011 11:12 AM

From: Josh Lewis/DC/USEPA/US
To: david.bowser@mail.house.gov, paige.anderson@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



broun.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Paul Broun
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Broun:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition – will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

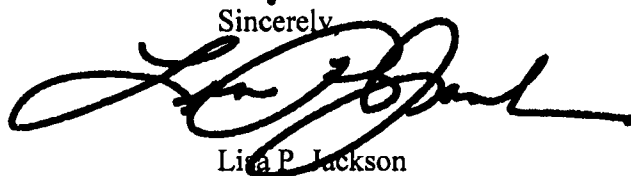
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO₂ emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO₂ emissions in ways that are scientifically sound and also manageable in practice.

EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO₂ emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO₂ emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO₂. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO₂ at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

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Lita P. Jackson



{In Archive} EPA Response to Rep Lamborn's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: craig.rushing, chris.phelen

01/12/2011 11:12 AM

From: Josh Lewis/DC/USEPA/US
To: craig.rushing@mail.house.gov, chris.phelen@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



lamborn.pdf
Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Doug Lamborn
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Lamborn:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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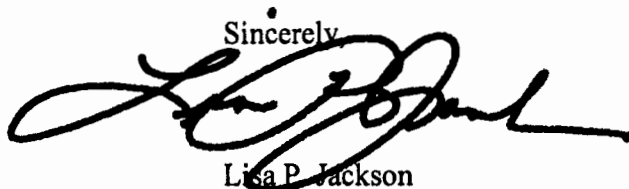
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Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", is written over the word "Sincerely,".

Lisa P. Jackson



{In Archive} EPA Response to Rep Owens' Dec 10th letter re: biomass and the tailoring rule
Josh Lewis to: brad.katz

01/12/2011 11:16 AM

From: Josh Lewis/DC/USEPA/US
To: brad.katz@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



owens.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable William Owens
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Owens:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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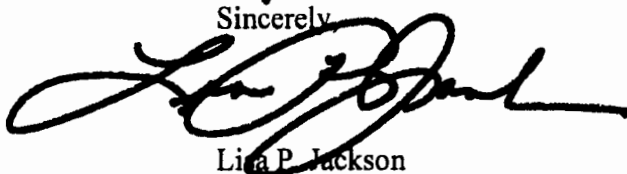
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Lina P. Jackson



{In Archive} EPA Response to Rep Jones' Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: Bowlen, Joshua, molly.norton

01/12/2011 11:12 AM

From: Josh Lewis/DC/USEPA/US

To: "Bowlen, Joshua" <Joshua.Bowlen@mail.house.gov>, molly.norton@mail.house.gov

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jones.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Walter Jones
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Jones:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

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In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

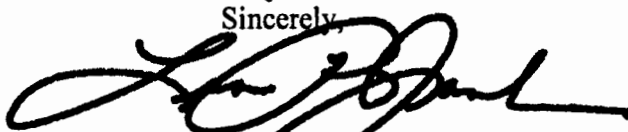
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO2 emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO2 emissions in ways that are scientifically sound and also manageable in practice.

EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO2 emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO2 emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO2. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO2 at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson



{In Archive} Fw: Unrelated question re: biomass
Josh Lewis to: Ben_Dunham
Cc: Sven-Erik Kaiser

01/27/2011 01:23 PM

From: Josh Lewis/DC/USEPA/US
To: Ben_Dunham@lautenberg.senate.gov
Cc: Sven-Erik Kaiser/DC/USEPA/US@EPA
Archive: This message is being viewed in an archive.

Ben,

Not sure what the specific biomass questions the person who's asking for a contact has, but if it's related to our biomass call for information from last November, Jennifer Jenkins is the best point of contact [her # is 14-4 ; email jenkins.jennifer@epa.gov (her information is in the attached notice as well)].



Biomass_call-for-info.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550

----- Forwarded by Sven-Erik Kaiser/DC/USEPA/US on 01/26/2011 03:24 PM -----

From: "Dunham, Ben (Lautenberg)" <Ben_Dunham@lautenberg.senate.gov>
To: Sven-Erik Kaiser/DC/USEPA/US@EPA
Date: 01/26/2011 12:10 PM
Subject: Unrelated question

Do you know any good program people that work on biomass? This isn't for Lautenberg's office, but I wanted to be able to refer somebody else.

Ben Dunham
Legislative Assistant and Counsel
US Senator Frank R. Lautenberg

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2010-0560; FRL-XXXX-X]

Call for Information: Information on Greenhouse Gas
Emissions Associated with Bioenergy and Other Biogenic
Sources.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Call for Information.

SUMMARY: EPA is publishing this Call for Information to solicit information and viewpoints from interested parties on approaches to accounting for greenhouse gas emissions from bioenergy and other biogenic sources.¹ The purpose of this Call is to request comment on developing an approach for such emissions under the Prevention of Significant Deterioration (PSD) and Title V Programs as well as to receive data submissions about these sources and their emissions, general technical comments on accounting for these emissions, and comments on the underlying science that should inform possible accounting approaches.

¹ GHG emissions from bioenergy and other biogenic sources are generated during the combustion or decomposition of biologically-based material, and include sources such as, but not limited to, utilization of forest or agricultural products for energy, wastewater treatment and livestock management facilities, landfills, and fermentation processes for ethanol production.

DATES: Information and comments must be received on or before [INSERT THE DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your information, identified by Docket ID No. EPA-HQ-OAR-2010-0560, by one of the following methods:

- **Federal eRulemaking Portal:**
<http://www.regulations.gov>: Follow the online instructions for submitting comments.
- **Email:** GHGBiogenic@epa.gov.
- **Fax:** (202) 566-1741.
- **Mail:** EPA Docket Center, Attention Docket OAR-2010-0560, Mail code 2822T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- **Hand/Courier Delivery:** EPA Docket Center, Public Reading Room, Room 3334, EPA West Building, Attention Docket OAR-2010-0560, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your information and comments to Docket ID No. EPA-HQ-OAR-2010-0560. EPA's policy is that all information received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the information includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to

be CBI or otherwise protected through <http://www.regulations.gov>. The <http://www.regulations.gov> website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and should be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy.

Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at EPA's Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Ave., NW, Washington, DC 20004. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Jennifer Jenkins, Climate Change Division, Office of Atmospheric Programs (MC-6207J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 343-9361; fax number: (202) 343-2359; e-mail address: jenkins.jennifer@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. General Information

- A. What is today's action?
- B. What additional background information is EPA making available?
- C. Where can I get the information?
- D. What specific information is EPA seeking?
- E. What should I consider as I prepare my information and comments for EPA?
- F. Submitting Confidential Business Information (CBI).

I. General Information

A. What is today's action?

On June 3, 2010, EPA published the final Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule (known hence forth as the Tailoring Rule) (75 FR 31514). In that Rule, EPA did not take action on a request from commenters to exclude CO₂ emissions from biogenic fuels. Instead, EPA explained that the legal basis for the Rule, reflecting specifically the overwhelming permitting burdens that would be created under the statutory emissions thresholds, does not itself provide a rationale for excluding all emissions of CO₂ from combustion of a particular fuel, even a biogenic one. The fact that the Tailoring Rule did not take final action one way or another concerning such an exclusion does not mean that EPA has decided there is no basis for treating biomass CO₂ emissions differently from fossil fuel CO₂ emissions under the Clean Air Act's PSD and Title V Programs. Further, in finalizing the Tailoring Rule, the Agency did not have sufficient information to address the issue of the carbon neutrality of biogenic energy in any event.

This Call for Information serves as a first step for EPA in considering options for addressing emissions of

biogenic CO₂ under the PSD and Title V programs as indicated above.

Given the broad and complex nature of this issue, EPA also welcomes stakeholders to respond to this Call for Information by providing data submissions about these sources and their emissions and technical comments on approaches generally to accounting for GHG emissions from bioenergy and other biogenic sources. EPA requests that stakeholders provide relevant information on the underlying science that should inform possible accounting approaches.

In response to this Call for Information, interested parties are invited to assist EPA in the following: (1) Surveying and assessing the science by submitting research studies or other relevant information, and (2) evaluating different accounting approaches and options by providing policy analyses, proposed or published methodologies, or other relevant information. Interested parties are also invited to submit data or other relevant information about the current and projected scope of GHG emissions from bioenergy and other biogenic sources.

B. What additional background information is EPA making available?

National-level GHG inventories are a common starting point for evaluations and discussions of approaches to

accounting for GHG emissions from bioenergy sources. EPA's Inventory of U.S. Greenhouse Gas Emissions and Sinks (the Inventory)² is an impartial, policy-neutral report that tracks annual GHG emissions including carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆). The United States has submitted the Inventory to the Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC) under its obligation as a Party to the Convention every year since 1993. The UNFCCC, ratified by the United States in 1992, defines the overall framework for intergovernmental efforts to tackle the challenge posed by climate change. The Inventory submitted by the United States is consistent with national inventory data submitted by other UNFCCC Parties, and uses internationally accepted methodologies established by the Intergovernmental Panel on Climate Change (IPCC).

The Revised 1996 IPCC Guidelines (IPCC Guidelines)³ provide methodologies for estimating all anthropogenic

² US EPA. 2010. Inventory of U.S Greenhouse Gas Emissions and Sinks: 1990-2008. U.S. EPA #430-R-10-06. Available in Docket at EPA-HQ-OAR-2010-0560.

³ Intergovernmental Panel on Climate Change (IPCC). 1996. Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories, Prepared by the National Greenhouse Gas Inventories Programme. Published: IGES, Japan. 3 Volumes. Available in Docket at EPA-HQ-OAR-2010-0560.

sources and sinks of GHG emissions at the national scale, classified into six broad sectors: Energy, Industrial Processes, Solvents and Other Product Uses, Agriculture, Land-Use Change and Forestry (LUCF), and Waste. The Energy Sector includes all GHGs emitted during the production, transformation, handling and consumption of energy commodities, including fuel combustion. The LUCF Sector includes emissions and sequestration resulting from human activities which change the way land is used or which affect the amount of biomass in existing biomass stocks. According to the IPCC Guidelines, CO₂ emissions from biomass combustion

*"... should not be included in national CO₂ emissions from fuel combustion. If energy use, or any other factor, is causing a long term decline in the total carbon embodied in standing biomass (e.g. forests), this net release of carbon should be evident in the calculation of CO₂ emissions described in the Land Use Change and Forestry chapter."*⁴

Thus, at the national level, these CO₂ emissions are not included in the estimate of emissions from a country's Energy Sector, even though the emissions physically occur

⁴ Ibid., Reference Manual (Vol. 3), Page 1.10.

at the time and place in which useful energy is being generated (i.e., power plant or automobile). The purpose of this accounting convention is to avoid double-counting that would provide a misleading characterization of a country's contribution to global GHG emissions (i.e., to avoid having CO₂ emissions accounted both in the Energy Sector and the LUCF Sector). Carbon dioxide emissions from bioenergy sources are still reported as information items in the Energy Sector of the Inventory, but are not included in national fuel-combustion totals to avoid this double-counting at the national scale.⁵

The IPCC Guidelines for National Greenhouse Gas Inventories are relevant to today's Call for Information because they have influenced subsequent reporting systems, such as the World Resources Institute/World Business Council for Sustainable Development (WRI/WBCSD) protocols.⁶ Additionally, some stakeholders have identified the IPCC Guidelines and the Inventory as providing a foundational

⁵ Emissions of methane and nitrous oxide from the combustion of biomass for energy are included in the Energy Sector, however, because their magnitude is dependent on the specific way in which the fuel is burned (i.e., combustion technology and operating conditions), which cannot be known by analyzing the changes in the amount of carbon in standing biomass.

⁶ World Resources Institute/ World Business Council on Sustainable Development. 2004. A Corporate Accounting and Reporting Standard. Available in Docket at EPA-HQ-OAR-2010-0560.

methodology for accounting for GHG emissions from bioenergy.⁷

Separately, to assist interested parties in considering the broader issues pertaining to this Call for Information, EPA has assembled and placed into the docket a set of documents relevant to the topic of today's action. This collection of documents is not intended to represent a complete or exhaustive set of materials, but rather serves as a starting point to provide further background information to interested parties regarding key concepts and scientific research. For example, the Docket includes for review the following information:

- US EPA. 2010. Inventory of U.S Greenhouse Gas Emissions and Sinks: 1990-2008. U.S. EPA #430-R-10-06.
- Intergovernmental Panel on Climate Change (IPCC). 1996. Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories, Prepared by the National Greenhouse Gas Inventories Programme. Published: IGES, Japan.
- IPCC. 2000. Special Report on Land Use, Land-Use Change, and Forestry. Watson, R., Noble, I., Bolin, B., Ravindranath, N., Verardo, D., and Dokken, D. (eds.). Cambridge: Cambridge University Press.
- IPCC. 2000. Good Practice Guidance and Uncertainty Management in National Greenhouse Gas Inventories, Prepared by the National Greenhouse Gas Inventories Programme. Published: IGES, Japan.

⁷ Letter from Mr. Daniel Fulton, President and CEO, Weyerhaeuser Corporation to Administrator Jackson, May 24, 2010. Available in Docket at EPA-HQ-OAR-2010-0560.

- IPCC. 2003. Good Practice Guidance for Land Use, Land-Use Change and Forestry. Prepared by the National Greenhouse Gas Inventories Programme. Penman, J., Gytarsky, M., Krug, T., Kruger, D., Pipatti, R., Buendia, L., Miwa, K., Ngara, T., Tanabe, K. and Wagner, F. (eds.). Published: IGES, Japan.
- IPCC. 2006. 2006 IPCC Guidelines for National Greenhouse Gas Inventories, Prepared by the National Greenhouse Gas Inventories Programme. Eggleston, H.S., Buendia, L., Miwa, K., Ngara, T. and Tanabe, K. (eds.). Published: IGES, Japan.
- World Resources Institute/ World Business Council on Sustainable Development. 2004. A Corporate Accounting and Reporting Standard.
- Letter from Mr. Daniel S. Fulton, President and CEO, Weyerhaeuser Corporation to Administrator Lisa P. Jackson. May 24, 2010.
- Response from Assistant Administrator Gina McCarthy to Mr. Fulton. June 2, 2010.
- Interim Phase I Report of the Climate Change Work Group of the Permits, New Source Review and Toxics Subcommittee, Clean Air Act Advisory Committee. February 3, 2010.
- Manomet Center for Conservation Sciences. 2010. Massachusetts Biomass Sustainability and Carbon Policy Study: Report to the Commonwealth of Massachusetts Department of Energy Resources. Walker, T. (Ed.). Contributors: Cardellichio, P., Colnes, A., Gunn, J., Kittler, B., Recchia, C., Saah, D., and Walker, T. Natural Capital Initiative Report NCI-2010-03. Brunswick, Maine.
- USDA Forest Service, Pacific Southwest Research Station. 2009. Biomass to Energy: Forest Management for Wildfire Reduction, Energy Production, and Other Benefits. California Energy Commission, Public Interest Energy Research (PIER) Program. CEC-500-2009-080.
- Searchinger, T., Hamburg, S., Melillo, J., Chameides, W., Havlik, P., Kammen, D., Likens, G., Lubowski, R., Obersteiner, M., Oppenheimer, W., Robertson, G.P., Schlesinger, W., Tilman, G.D. 2009. Fixing a critical climate accounting error. *Science* 326: 527-528.

- Meridian Institute. 2010. Summary of Bioenergy Greenhouse Gas Accounting Stakeholder Group Discussions. May 13, 2010. Washington, DC.

C. Where can I get the information?

All of the information can be obtained through the Air Docket and at <http://www.regulations.gov> (see **ADDRESSES** section above for docket contact information).

D. What specific information is EPA seeking?

As described in Section I.A, EPA is requesting two types of submissions via this Call for Information: (1) technical comments and data submissions related to the accounting for GHG emissions from bioenergy and other biogenic sources with respect specifically to the PSD and Title V Programs, and (2) more general technical comments and data submissions related to accounting for GHG emissions from bioenergy and other biogenic sources without reference to specific rulemaking efforts.

EPA is soliciting from interested parties information and views on topics and questions including, but not limited to the following:

- Biomass under PSD/BACT. What criteria might be used to consider biomass fuels and the emissions resulting from their combustion differently with regard to applicability under PSD and with regard to the Best Available Control Technology (BACT) review process under PSD?
- National-scale carbon neutrality in the IPCC Guidelines. In the IPCC accounting approach described

in Section I.B, at the national scale emissions from combustion for bioenergy are included in the LUCF Sector rather than the Energy Sector. To what extent does this approach suggest that biomass consumption for energy is "neutral" with respect to net fluxes of CO₂?

- Smaller-scale accounting approaches. The Clear Air Act (CAA) provisions typically apply at the unit, process, or facility scale, whereas the IPCC Guidance on accounting for GHG emissions from bioenergy sources was written to be applicable at the national scale. EPA is interested in understanding the strengths and limitations of applying the national-scale IPCC approach to assess the net impact (i.e. accounting for both emissions and sequestration) on the atmosphere of GHG emissions from specific biogenic sources, facilities, fuels, or practices. To what extent is the accounting procedure in the IPCC Guidelines applicable or sufficient for such specific assessments?
- Alternative accounting approaches. Both a default assumption of carbon neutrality and a default assumption that the greenhouse gas impact of bioenergy is equivalent to that of fossil fuels may be insufficient because they oversimplify a complex issue. If this is the case, what alternative approaches or additional analytical tools are available for determining the net impact on the atmosphere of CO₂ emissions associated with bioenergy? Please comment specifically on how these approaches address:
 - The time interval required for production and consumption of biological feedstocks and bioenergy products. For example, the concept of "carbon debt" has been proposed as the length of time required for a regrowing forest to "pay back" the carbon emitted to the atmosphere when biomass is burned for energy.
 - The appropriate spatial/ geographic scale for conducting this determination. For example, the question of spatial scale has legal complications under the CAA, but may be relevant for some of the suggested approaches.
- Comparison with fossil energy. EPA is interested in approaches for assessing the impact on the atmosphere of emissions from bioenergy relative to emissions from

fossil fuels such as coal, oil, and gas. What bases or metrics are appropriate for such a comparison?

- Comparison among bioenergy sources. EPA is also interested in comments on accounting methods that might be appropriate for different types of biological feedstocks and bioenergy sources. What bases or metrics are appropriate for such a comparison among sources? In other words, are all biological feedstocks (e.g. corn stover, logging residues, whole trees) the same, and how do we know?
- Renewable or sustainable feedstocks. Specifically with respect to bioenergy sources (especially forest feedstocks), if it is appropriate to make a distinction between biomass feedstocks that are and are not classified as "renewable" or "sustainable," what specific indicators would be useful in making such a determination?
- Other biogenic sources of CO₂. Other biogenic sources of CO₂ (i.e., sources not related to energy production and consumption) such as landfills, manure management, wastewater treatment, livestock respiration, fermentation processes in ethanol production, and combustion of biogas not resulting in energy production (e.g., flaring of collected landfill gas) may be covered under certain provisions of the CAA, and guidance will be needed about exactly how to estimate them. How should these "other" biogenic CO₂ emission sources be considered and quantified? In what ways are these sources similar to and different from bioenergy sources?
- Additional technical information. EPA is also interested in receiving quantitative data and qualitative information relevant to biogenic greenhouse gas emissions, including but not limited to the following topics:
 - Current and projected utilization of biomass feedstocks for energy.
 - Economic, technological, and land-management drivers for projected changes in biomass utilization rates.
 - Current and projected levels of GHG emissions from bioenergy and other biogenic sources.
 - Economic, technological and land-management drivers for projected changes in emissions.

- Current and projected C sequestration rates in lands used to produce bioenergy feedstocks.
- Economic, technological and land-management drivers for projected changes in sequestration rates.
- The types of processes that generate or are expected to generate emissions from bioenergy and other biogenic sources.
- The number of facilities that generate or are expected to generate such emissions.
- Emission factor information, particularly for the biogenic CO₂ source categories of wastewater treatment, livestock management, and ethanol fermentation processes.
- Potential impacts on specific industries and particular facilities of various methods of accounting for biogenic GHG emissions.
- Potential impacts of GHG emissions from bioenergy and other biogenic sources on other resources such as water availability and site nutrient quality.
- Potential impacts of GHG emissions from bioenergy and other biogenic sources on other air pollutants such as VOCs, other criteria pollutants, and particulate matter.

E. What should I consider as I prepare information for

EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information or data you used that support your views.
4. Provide specific examples to illustrate your concerns, suggestions, and recommendations.

5. Offer alternatives, if possible, if a particular approach is criticized.

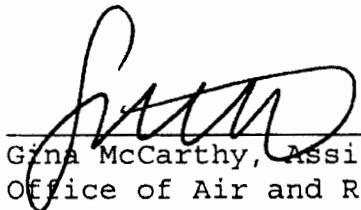
6. Make sure to submit your information by the deadline identified.

7. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and Federal Register citation related to your comments.

F. Submitting Confidential Business Information (CBI).

Do not submit information you are claiming as CBI to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part of the information that you claim to be CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

7/9/10
Dated:


Gina McCarthy, Assistant Administrator
Office of Air and Radiation



{In Archive} tailoring rule fact sheet
Josh Lewis to: adam_durand

06/27/2011 01:22 PM

From: Josh Lewis/DC/USEPA/US
To: adam_durand@klobuchar.senate.gov
Archive: This message is being viewed in an archive.

Adam,

Good talking w/ you. Here's the fact sheet...take a look and give a call back if you'd like to discuss further. Also attaching the fact sheet for the biomass deferral proposed rule that I mentioned.



Tailoring rule fact sheet.pdf biogenicfs.pdf

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550

**Final Rule: Prevention of Significant Deterioration
and Title V Greenhouse Gas Tailoring Rule**

FACT SHEET

ACTION

- On May 13, 2010, the U.S. Environmental Protection Agency (EPA) issued a final rule that establishes a common sense approach to addressing greenhouse gas emissions from stationary sources under the Clean Air Act (CAA) permitting programs. This final rule sets thresholds for greenhouse gas (GHG) emissions that define when permits under the New Source Review Prevention of Significant Deterioration (PSD) and title V Operating Permit programs are required for new and existing industrial facilities.
- This final rule “tailors” the requirements of these CAA permitting programs to limit which facilities will be required to obtain PSD and title V permits. Facilities responsible for nearly 70 percent of the national GHG emissions from stationary sources will be subject to permitting requirements under this rule. This includes the nation’s largest GHG emitters—power plants, refineries, and cement production facilities.
- Emissions from small farms, restaurants, and all but the very largest commercial facilities will not be covered by these programs at this time.
- The rule establishes a schedule that will initially focus CAA permitting programs on the largest sources with the most CAA permitting experience. The rule then expands to cover the largest sources of GHG that may not have been previously covered by the CAA for other pollutants. Finally, it describes EPA plans for any additional steps in this process.
- The CAA permitting program emissions thresholds for criteria pollutants such as lead, sulfur dioxide and nitrogen dioxide, are 100 and 250 tons per year (tpy). While these thresholds are appropriate for criteria pollutants, they are not feasible for GHGs because GHGs are emitted in much higher volumes.
- Without this tailoring rule, the lower emissions thresholds would take effect automatically for GHGs on January 2, 2011. PSD and title V requirements at these thresholds would lead to dramatic increases in the number of required permits —tens of thousands of PSD permits and millions of title V permits. State, local, and tribal permitting authorities would be overwhelmed and the programs’ abilities to manage air quality would be severely impaired.
- EPA will phase in the CAA permitting requirements for GHGs in two initial steps.

Step 1. (January 2, 2011 –June 30, 2011)

- Only sources currently subject to the PSD permitting program (i.e., those that are newly-constructed or modified in a way that significantly increases emissions of a pollutant other than GHGs) would be subject to permitting requirements for their GHG emissions under PSD.
- For these projects, only GHG increases of 75,000 tpy or more of total GHG, on a CO₂e basis, would need to determine the Best Available Control Technology (BACT) for their GHG emissions.
- Similarly for the operating permit program, only sources currently subject to the program (i.e., newly constructed or existing major sources for a pollutant other than GHGs) would be subject to title V requirements for GHG.
- During this time, no sources would be subject to Clean Air Act permitting requirements due solely to GHG emissions.

Step 2. (July 1, 2011 to June 30, 2013)

- Step 2 will build on Step 1. In this phase, PSD permitting requirements will cover for the first time new construction projects that emit GHG emissions of at least 100,000 tpy even if they do not exceed the permitting thresholds for any other pollutant. Modifications at existing facilities that increase GHG emissions by at least 75,000 tpy will be subject to permitting requirements, even if they do not significantly increase emissions of any other pollutant.
- In Step 2, operating permit requirements will, for the first time, apply to sources based on their GHG emissions even if they would not apply based on emissions of any other pollutant. Facilities that emit at least 100,000 tpy CO₂e will be subject to title V permitting requirements.
- EPA estimates that about 550 sources will need to obtain title V permits for the first time due to their GHG emissions. The majority of these newly permitted sources will likely be solid waste landfills and industrial manufacturers. There will be approximately 900 additional PSD permitting actions each year triggered by increases in GHG emissions from new and modified emission sources.

Additional Step 3 Outlined in this Rule

- In this final rule, EPA commits to undertake another rulemaking, to begin in 2011 and conclude no later than July 1, 2012. That action will take comment on an additional step for phasing in GHG permitting, and may discuss whether certain smaller sources can be permanently excluded from permitting. EPA also plans to explore a range of opportunities

for streamlining future GHG permitting that have the potential to significantly reduce permitting burdens. EPA will propose viable streamlining options in the “Step 3” rulemaking.

- Step three, if established, will not require permitting for sources with greenhouse gas emissions below 50,000 tpy.
- EPA will not require permits for smaller sources in step three or through any other action until at least April 30, 2016.

Other Steps Outlined in this Rule

- By the end of April 2015, EPA will complete a study on remaining GHG permitting burdens that would exist if we applied the program to smaller sources. We will consider the results of the study to complete a rule by April 30, 2016 further addressing Clean Air Act permitting for these facilities. In that rule we may decide that successful streamlining will allow us to phase in more sources, but we may also decide that certain smaller sources need to be permanently excluded from permitting.

Implementation

- Step 1 of this final rule will take effect on January 2, 2011. The final rule asks states to inform EPA whether they must make rule changes to implement the new GHG emissions thresholds, and when such changes will be adopted. If there are cases where this cannot happen by January 2, 2011, EPA will take appropriate action to ensure that the existing CAA permitting rules do not apply to sources excluded by today’s rule.
- EPA also plans to develop supporting guidance and other information to assist permitting authorities as they begin to address permitting actions for GHG emissions for the first time. EPA will be actively working with states on technical information and data needs related to identifying BACT requirements for PSD permits. The guidance would first cover source categories that typically emit GHGs at levels exceeding the thresholds established through this rulemaking.

Covered Pollutants

- On April 1, 2010, EPA and the Department of Transportation’s National Highway Safety Administration issued the first national rule limiting GHG emissions from cars and light trucks. The requirements of the GHG light duty vehicle rule take effect on January 2, 2011, the earliest date that 2012 vehicles meeting the standards can be sold in the United States. On that date, CAA permitting program requirements will apply to stationary sources of these pollutants.

- The final rule addresses emissions of a group of six GHGs:
 1. Carbon dioxide (CO₂)
 2. Methane (CH₄)
 3. Nitrous oxide (N₂O)
 4. Hydrofluorocarbons (HFCs)
 5. Perfluorocarbons (PFCs)
 6. Sulfur hexafluoride (SF₆)
- Some of these GHGs have a higher global warming potential than others. To address these differences, the international standard practice is to express GHGs in carbon dioxide equivalents (CO₂e). Emissions of gases other than CO₂ are translated into CO₂e by using the gases' global warming potentials. Under this rule, EPA is using CO₂e as the metric for determining whether sources are covered by permitting programs. Total GHG emissions will be calculated by summing the CO₂e emissions of all of the six constituent GHGs.

BACKGROUND

- On April 2, 2007, the Supreme Court found that GHGs, including carbon dioxide, are air pollutants covered by the CAA. *Massachusetts v. EPA*, 549 U.S. 497 (2007).
- The Court found that EPA was required to determine whether or not emissions of GHGs from new motor vehicles cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision. In April 2009, EPA responded to the Court by proposing a finding that greenhouse gases contribute to air pollution that may endanger public health or welfare. On December 7, 2009, the Administrator signed two distinct findings regarding GHG under section 202(a) of the CAA:

Endangerment Finding: The Administrator found that the current and projected atmospheric concentrations of the six, key, well-mixed GHGs— CO₂, CH₄, N₂O, HFCs, PFCs, and SF₆ --threaten the public health and welfare of current and future generations.

Cause or Contribute Finding: The Administrator found that the combined emissions of these well-mixed GHGs from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution which threatens public health and welfare.

- These findings, which were published December 15, 2009, do not impose any requirements on industry or other entities. However, they were a prerequisite to finalizing the GHG standards for light-duty vehicles.
- On December 18, 2008, EPA issued a memorandum, "EPA's Interpretation of Regulations that Determine Pollutants Covered by Federal Prevention of Significant Deterioration (PSD) Permit Program" (known as the "Johnson Memo" or the "PSD Interpretive Memo").

Whether a pollutant is “subject to regulation” is important for the purposes of determining whether it is covered under the CAA permitting programs. The PSD Interpretive Memo established that a pollutant is “subject to regulation” only if it is subject to either a provision in the CAA or regulation adopted by EPA under the CAA that requires actual control of emissions of that pollutant. On February 17, 2009, EPA granted a petition for reconsideration of this memorandum.

- On March 29, 2010, the Administrator signed a notice conveying the agency’s decision to continue applying the PSD Interpretive Memo’s interpretation of “subject to regulation.” EPA concluded that the “actual control interpretation” is the most appropriate interpretation. The agency established that CAA permitting requirements apply to a newly regulated pollutant at the time a regulatory requirement to control emissions of that pollutant “takes effect” (rather than upon promulgation or the legal effective date of the regulation containing such a requirement). Based on the anticipated promulgation of the light duty vehicle rule, the notice stated that the GHG requirements of the vehicle rule would trigger CAA permitting requirements for stationary sources on January 2, 2011.
- On April 1, 2010, EPA finalized the light duty vehicle rule controlling GHG emissions. This rule confirmed that January 2, 2011 is the earliest date that a 2012 model year vehicle meeting these rule requirements may be sold in the United States.
- Congress established the NSR program as part of the 1977 Clean Air Act Amendments and modified it in the 1990 Amendments. NSR is a preconstruction permitting program that serves two important purposes:
 1. Ensures the maintenance of air quality standards or, where there are not air quality standards, it ensures that air quality does not significantly worsen when factories, industrial boilers, and power plants are modified or added. In areas that do not meet the national ambient air quality standards, NSR assures that new emissions do not slow progress toward cleaner air. In areas that meet the standards, especially pristine areas like national parks, NSR assures that new emissions fall within air quality standards.
 2. Ensures that state-of-the-art control technology is installed at new plants or at existing plants that are undergoing a major modification.
- New major stationary sources and major modifications at existing major stationary sources that meet emissions applicability thresholds outlined in the CAA and in existing PSD regulations must obtain a PSD permit outlining how they will control emissions. The permit requires facilities to apply BACT, which is determined on a case-by-case basis taking into account, among other factors, the cost and effectiveness of the control.
- The 1990 Amendments required that all states develop operating permit programs. Under these programs, known as title V Operating Permits programs, every major industrial source

of air pollution (and some other sources) must obtain an operating permit. The permits, which are reviewed every 5 years, contain all air emission control requirements that apply to the facility, including the requirements established as part of the preconstruction permitting process.

FOR MORE INFORMATION

- To download a copy of this notice, go to EPA's Web site at: <http://www.epa.gov/nsr>.
- Today's final action and other background information are also available electronically at <http://www.regulations.gov>, EPA's electronic public docket and comment system. The docket number for this action is Docket ID No. EPA-HQ-OAR-2009-0517.
- For more information on the final rule, contact Joseph Mangino at (919) 541-9778 or mangino.joseph@epa.gov.

**Proposed Rule - Deferral for CO₂ emissions from Bioenergy and Other Biogenic Sources
under the Prevention of Significant Deterioration (PSD) and Title V Programs**

FACT SHEET

ACTION

- This action proposes to defer for a period of three years, the application of the Prevention of Significant Deterioration (PSD) and Title V permitting requirements to carbon dioxide (CO₂) emissions from bioenergy and other biogenic stationary sources (biogenic CO₂).
- This is one of several steps the Agency is taking to address the issues associated with biogenic CO₂ emissions from stationary sources.
- Concurrent with this rulemaking, EPA is also issuing interim guidance to help permitting authorities establish a basis for concluding that under PSD and Title V Programs the combustion of biomass fuels can be considered the best available control technology (BACT) for biogenic CO₂ emissions at stationary sources.
- During the three year deferral period, EPA will conduct a detailed examination of the science associated with biogenic CO₂ emissions from stationary sources. EPA will engage with federal partners, technical experts, and an independent scientific panel to consider technical issues that the Agency must resolve in order to account for biogenic CO₂ emissions in ways that are scientifically sound and also manageable in practice.
- EPA will accept public comments on the proposed deferral for 45 days following publication in the Federal Register.

BACKGROUND

- On January 12, 2011, EPA announced in letters to Members of Congress and the National Alliance of Forest Owners (NAFO) its intent to take this action as well as a number of related steps to address the issues associated with biogenic CO₂ emissions from stationary sources. The full list of steps EPA outlined in that letter are:
 - Granting the Petition for Reconsideration filed by NAFO on August 3, 2010, related to the PSD and Title V Greenhouse Gas (GHG) Tailoring Rule (75 FR 31514, June 3, 2010) ("Tailoring Rule").
 - Issuing today's rulemaking to defer for three years the application of the PSD and Title V permitting requirements to biogenic CO₂ emissions from stationary sources.
 - Concurrently issuing interim guidance on how biogenic CO₂ emissions from stationary sources should be treated by permitting authorities until final decisions are made.
 - Undertaking a detailed examination of the science associated with biogenic CO₂ emissions from stationary sources, including engaging with federal partners, technical experts, and an independent scientific panel to consider technical issues.
 - Developing a final rule on how biogenic CO₂ emissions should be treated and accounted for in PSD and Title V permitting based on the feedback from the scientific and technical review.

- Biogenic CO₂ emissions are defined as emissions of CO₂ from a stationary source directly resulting from the combustion or decomposition of biologically-based materials other than fossil fuels. Examples include, but are not limited to:
 - CO₂ generated from the biological decomposition of waste in landfills, wastewater treatment or manure management processes;
 - CO₂ from the combustion of biogas collected from biological decomposition of waste in landfills, wastewater treatment or manure management processes;
 - CO₂ from fermentation during ethanol production;
 - CO₂ from combustion of the biological fraction of municipal solid waste or biosolids;
 - CO₂ from combustion of the biological fraction of tire-derived fuel; and
 - CO₂ derived from combustion of biological material, including all types of wood and wood waste, forest residue, and agricultural material.
- The PSD program is a preconstruction review and permitting program applicable to "new major stationary sources" and "major modifications" at existing major stationary sources. The Title V permit program establishes operating permit requirements that are intended to improve sources' compliance with other CAA requirements. The applicability to both programs is dependent on whether the stationary source meets certain emissions thresholds.
- On June 3, 2010, EPA issued the Tailoring Rule and established two steps to implement PSD and Title V.
 - Tailoring Rule Step 1 began on January 2, 2011. Step 1 applies to sources subject to PSD or Title V anyway due to their emissions of other pollutants ("anyway" sources) and that have the potential to emit 75,000 tpy CO_{2e} (or increase emissions by that amount for modifications);
 - Tailoring Rule Step 2 begins on July 1, 2011. In addition to anyway sources, Step 2 applies to new facilities emitting GHGs in excess of 100,000 tpy CO_{2e} and facilities making changes that would increase GHG emissions by at least 75,000 tpy CO_{2e}, and that also exceed 100/250 tpy of GHGs on a mass basis.

NEXT STEPS AND IMPLEMENTATION

- This proposal will be published in the *Federal Register* shortly and will be available at: www.regulations.gov.
- The guidance and a prepublication copy of the proposal are available on our Web site at: <http://www.epa.gov/nsr>

MORE INFORMATION

For more information on the PSD and Title V programs and the July 2010 Call for Information on CO₂ emissions associated with bioenergy and other biogenic sources, please visit EPA's website: <http://www.epa.gov/nsr> and http://www.epa.gov/climatechange/emissions/biogenic_emissions.html



{In Archive} EPA Response to Rep Bonner's Dec 10th letter re: biomass and the tailoring rule

Josh Lewis to: alan.spencer, make.sharp

01/12/2011 11:11 AM

From: Josh Lewis/DC/USEPA/US
To: alan.spencer@mail.house.gov, make.sharp@mail.house.gov
Archive: This message is being viewed in an archive.

Please see attached, and let me know if you have any questions.



Bonner_Biomass.pdf

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USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2011

THE ADMINISTRATOR

The Honorable Jo Bonner
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Bonner:

Thank you for your recent letter about the way that carbon dioxide ("CO₂") emissions from biomass burning will be treated in Clean Air Act permitting of construction projects at large stationary sources. As you know, biomass can be part of a national strategy to reduce dependence on fossil fuels, and efforts are underway to foster the expansion of renewable resources and promote biomass as ways of addressing climate change and enhancing forest management.

Last July, EPA solicited views from the public on approaches to accounting for CO₂ emissions from biomass and other biogenic sources, including whether some or all of a source's biomass CO₂ emissions could be discounted based on a determination that they are canceled out by the CO₂ absorption associated with growing the fuel. EPA received information supporting the conclusion that certain biomass – such as waste materials whose inevitable decomposition will result in greenhouse gas emissions anyway – have only very limited climate impacts when combusted as fuel. EPA also, however, received information indicating that the use of certain other biomass as fuel could have more significant climate impacts.

In November, EPA announced that it was reviewing the public's comments with the goal of deciding whether the Clean Air Act would allow the use of some kind of discounting system or other method reflecting the net impacts of biomass combustion in determining the applicability of the pre-construction permitting requirement to CO₂ emissions from biomass-fired units. Your recent letter urges EPA to make a positive determination and to start a rulemaking promptly.

As of January 2, 2011, only those large stationary sources that trigger the pre-construction permitting requirement for other pollutants need to address greenhouse gases such as CO₂. No source will be subject to the pre-construction permitting requirement solely because of its greenhouse gas emissions until after July 1, 2011. That is one result of the Tailoring Rule that EPA issued last year. With the approach of July 1 in mind, I am announcing today that, by that date, EPA will complete a rulemaking to defer for three years the application of the pre-construction permitting requirement to biomass and other biogenic CO₂ emissions.

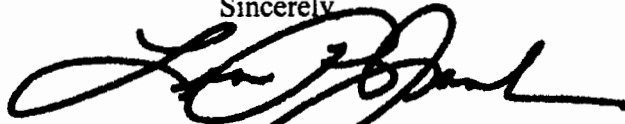
The purpose of the deferral is to give EPA time to effectuate a detailed examination of the science associated with biogenic CO2 emissions and to consider the technical issues that the agency must resolve in order to account for biogenic CO2 emissions in ways that are scientifically sound and also manageable in practice.

EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in the examination. Following the examination's completion, EPA will use its work product in establishing, by notice-and-comment rulemaking, the system for determining the applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in biomass and other biogenic CO2 emissions. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

Concurrent with the proposal to defer application of the pre-construction permitting requirement (known as "Prevention of Significant Deterioration," or "PSD") to biomass and other biogenic CO2 emissions, EPA intends to issue interim guidance to help permitting authorities establish a basis for concluding that the best available control technology (or "BACT," which is one of the statutory conditions for receiving a permit) for greenhouse gas emissions at such sources is simply combustion of biomass fuels. As noted above, under the Tailoring Rule, as of January 2, 2011, large stationary sources that become subject to PSD for other pollutants will need to address greenhouse gases such as CO2. If such permits are issued before July 1, 2011, then existing regulations might require that the permits meet the BACT requirement for greenhouse gas emissions during an interim period of time. In guidance issued last November, EPA explicitly recognized that a permitting authority might determine that certain types of biomass by themselves are BACT for greenhouse gas emissions after considering the environmental, energy, and economic benefits of using the fuel. EPA's supplemental guidance will provide a basis that permitting authorities may use to support the conclusion, during the interim period, that BACT for CO2 at such sources is simply the combustion of biomass fuel.

I hope you will see the steps described in this letter as following through on my prior commitment to exercise whatever discretion the Clean Air Act affords to avoid discouraging the use of renewable, domestically-produced fuel in power plants and factories. If you have additional questions, please do not hesitate to contact me or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson